

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

<b>Ameren Illinois Company</b>	)	
	)	<b>ICC Docket No. 13-0192</b>
<b>Proposed General Increase in Gas</b>	)	
<b>Rates and Revisions to Other Terms</b>	)	
<b>And Conditions of Service</b>	)	

**STATEMENT OF POSITION**  
**OF**  
**THE PEOPLE OF THE STATE OF ILLINOIS**

**The People of the State of Illinois**

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## Table of Contents

I.	Introduction .....	1
	A. Statement of the Case .....	1
	B. Test Year Forecast.....	1
II.	RATE BASE .....	6
	A. ADIT – Step-up Basis Metro.....	6
	B. Pension/OPEB Expense – Employee Benefits Adjustment .....	8
	C. Cash Working Capital .....	8
	1. Pass-Through Taxes Lead Days .....	8
III.	Operating Revenues and Expenses .....	11
	A. Pension/OPEB Expense - Employee Benefits Adjustment.....	11
	B. Non-Union Wages.....	11
	C. Forecasted Labor Expenses .....	11
	D. Forecasted Non-Labor Expenses .....	15
	E. Rate Case Expense .....	22
	F. Charitable Contributions .....	22
	G. Forecasted Advertising Expenses .....	25
	H. Sponsorship Expense .....	27
	I. Credit Card Expenses .....	30
	J. Non-Residential Revenues Adjustment.....	30
	K. Software Rental Revenues.....	30
	L. Recommended Operating Income / Revenue Requirement.....	31
IV.	COST OF CAPITAL AND RATE OF RETURN.....	33
	A. Resolved Issues.....	33
	B. Contested Issues .....	33
	C. Recommended Overall Rate of Return.....	33
V.	COST OF SERVICE .....	33
	A. Cost of Service Study.....	33
	1. T&D Main Allocation Methodology.....	33
VI.	REVENUE ALLOCATION .....	34
VII.	RATE DESIGN .....	34
	A. Resolved Issues.....	34
	1. SFV Cost Recovery.....	34
	2. GDS-5 Rate Availability .....	34
	B. Contested Issues .....	35
	1. GDS 1 Increase .....	35
	2. Heating vs. Non-Heating Customer Study .....	38
VIII.	CONCLUSION .....	40

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**STATEMENT OF POSITION**  
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**I. Introduction**

**A. Statement of the Case**

The People of the State of Illinois (“the People” or “the AG”), by Lisa Madigan, Attorney General of the State of Illinois, and pursuant to the request of the Administrative Law Judge, hereby file their Statement of Position in the above-captioned docket, consistent with the Initial and Reply Briefs filed by the Attorney General’s Office on September 20, 2013 and October 4, 2013, respectively. (*See* AG Initial and Reply Briefs for the People’s Introduction and overall summary of the case.)

**B. Test Year Forecast**

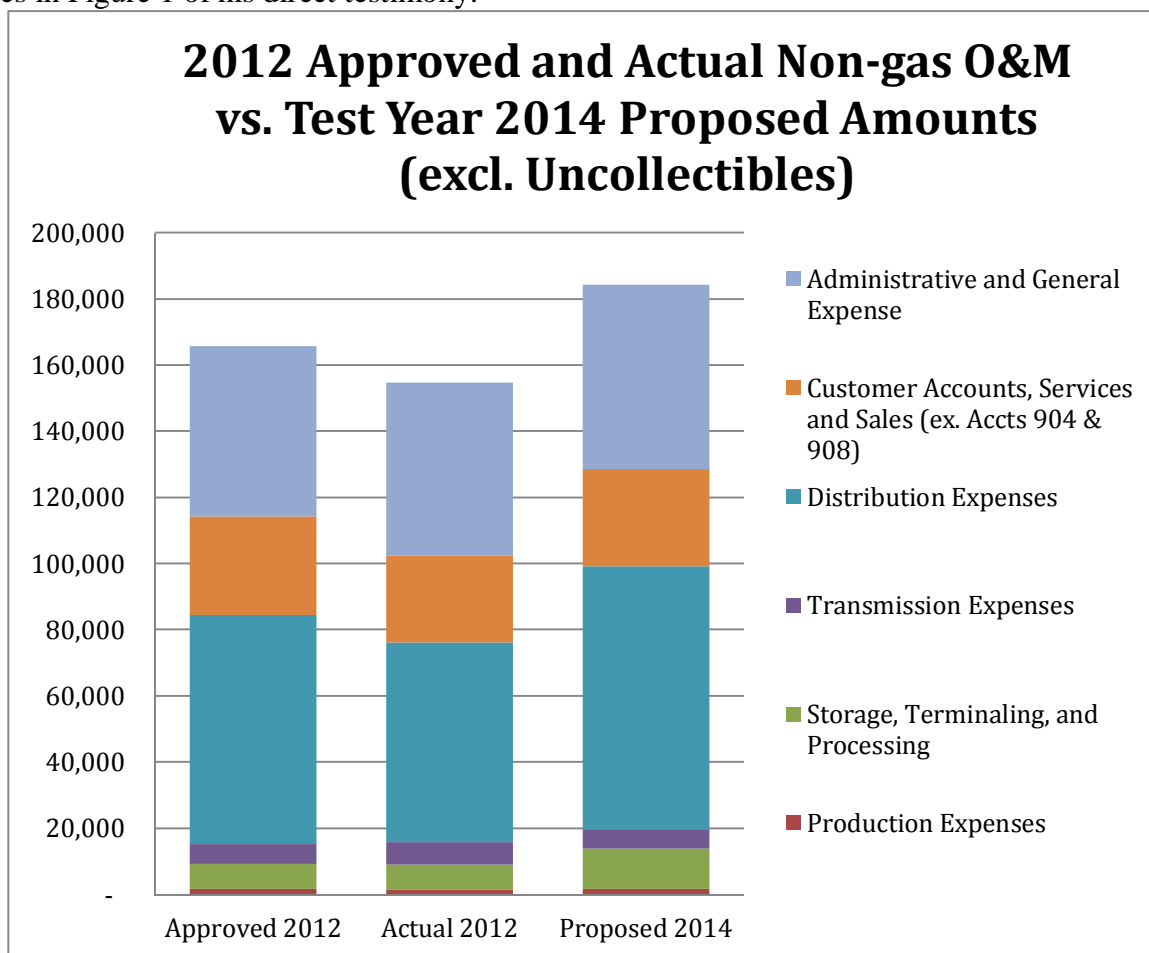
**Incentives to Inflate Forecasted Expenses**

The People note that AIC has chosen to use a future test year, *viz.* 2014, in this rate proceeding. While the People did not dispute the validity under Commission rules of using a future test year, AG/CUB witness Michael L. Brosch indicated in direct testimony that “[u]se of forecasted rather than actual recorded financial data creates an opportunity for management to aggressively forecast higher future costs because doing so is directly rewarded with higher utility rates and revenues.” AG/CUB Ex. 1.0, 5:113-115. If forecasted costs for the future test year prove to be higher than actual costs in that year, that would “contribute to an opportunity to earn a higher return than was intended in the rate order that was issued.” *Id.* at 7:139-140. For example, the last gas rate case order involving the Company, Docket No. 11-0282, entered in 2011, authorized approximately \$170.2 million of gas operating expenses for the 2012 test year, while actual operating expenses for 2012 totaled approximately \$162.2 million. *Id.* at 7:143-147.

The People also note that, despite extensive pre-filed testimony, discovery requests, and cross-examination by AG/CUB regarding the reliability of the Company’s test-year forecast, the Company chose not to address this issue in its initial brief, stating only at page 4 that “AIC proposed a future test year ending December 31, 2014. No party has contested the use of this test year.” As the People indicated in their Initial Brief, a future test year creates an opportunity for a utility’s management to aggressively forecast higher future costs. AG Initial Brief (hereinafter cited as “IB”) at 3. Moreover, the Company has a history of overstating test-year forecasted expenses, and it is once again attempting to do so in the instant proceeding. AIC’s

forecasted 2014 test-year expense is 17 percent higher than its actual 2012 operating expense. AG IB at 6. Historically, AIC has been able to significantly reduce expenses when needed without increased risk to public safety or to the provision of adequate, safe, and reliable service. AG IB at 5. Nonetheless, as the People indicated in their Initial Brief, quoting the Company's response to DR AG 20.04(f), "[n]o list of specific cost reductions or cost eliminations was formally created and tracked by AIC gas operations during the course of preparation of the 2014 forecast." AG IB at 5.

Notably, the People's briefs demonstrate that AIC is again forecasting much higher expense levels than have been incurred historically. Thus the concerns regarding the risks and challenges of setting rates based upon forecasted, rather than actual, costs incurred by the utility to provide service are more than conjectural. Ameren has a history of overstating its rate case test year forecasted expenses and is attempting to do the same with its 2014 forecasted test year expenses. AG/CUB witness Brosch sponsored a graph comparing the level of Commission-approved 2012 forecasted O&M expenses from Docket No. 11-0282 with the actual 2012 expenses incurred by AIC, and also with the Company's proposed 2014 forecasted O&M expenses in Figure 1 of his direct testimony:



The proposed 2014 expense levels from the Company's forecast are much higher than what have been previously approved by the Commission or were required to actually operate the gas business historically. Thus, the People believe it to be of utmost importance that the Commission mitigate the risk that the Company might simply be overstating its future expenses in the test year by carefully considering the forecast adjustments described herein and directing

the Company to completely document its rate-case forecasts with workpapers in future proceedings.

#### Future Test Year Expense Forecasts are Inherently Uncertain

Future spending levels are inherently uncertain, and judgment is required in preparing annual forecasts for any utility. Mr. Brosch explained that the fiduciary obligation of utility management is to maximize returns for investors. According to Mr. Brosch, this obligation requires that every foreseeable cost that may be incurred should be fully included in the ratemaking forecast to optimize the opportunity for future earnings, while any potential, but uncertain, opportunities to reduce future costs are likely to be ignored or discounted. AG/CUB Ex. 1.0, pages 5-6. The record in this case shows that AIC has been able to significantly reduce forecasted expense levels when needed to reduce costs in order to protect its financial performance. Ameren Ex. 16.0 (Rev.) page 10. Such spending reductions by utilities are not unusual whenever financial constraints exist. What is more unusual, according to Mr. Brosch, is the inclusion of any assumed significant expense reduction programs or austerity measures when the utility is forecasting future test-year O&M expenses that are to be used in setting utility rates. AG/CUB Ex. 5.0, pages 6-7. Notably, AIC has not assumed any incremental cost savings or budget reduction programs in assembling its test year 2014 expense forecast. Fiscal responsibility cost reductions or new efficiency gains are not assumed in the Company's test year O&M forecast that projects expenses 17 percent above 2012 actual levels. AG/CUB Ex. 5.0, page 10.

It is important to note that AIC's actual operating expense reductions during calendar year 2012 did not cause an increased risk to public safety or to the provision of adequate, safe and reliable service, according to the Company. AG/CUB Ex. 5.2, AIC's response to DR AG 18.05(d). Despite the Company's ability to reduce operating expenses during 2012, "[n]o list of specific cost reductions or cost eliminations was formally created and tracked by AIC gas operations during the course of preparation of the 2014 forecast." AG Ex. 5.4, AIC response to DR AG 20.04(f). AIC's proposed 2014 test-year operating expenses total over \$188 million, which is about 11 percent above expense levels approved for 2012 in the 11-0281 docket and about 17 percent higher than actual 2012 operating expenses. AG/CUB Ex. 1.0, 7:151-155. Despite the Company's apparent lack of interest in replicating the cost reductions executed during 2012, it is clear that the Company could safely make actual spending decisions for the 2014 test year that would bring operating expense significantly below the forecasted \$188 million. As Mr. Brosch observed in his direct testimony, the 32 percent increase of 2014 forecasted test year Distribution operating expense over the equivalent 2012 actual expense shows that the budget personnel elected to increase labor and non-labor costs by far more than the standard escalation factors listed in the Company's Schedule G-1. AG/CUB Ex. 1.0, 14:301-311.

#### Support for Assumptions Of Test-Year Forecast

Aside from clearly overstated results, another infirmity in the Company's projection of future test-year expenses is the Company's failure to provide adequately detailed workpapers and other documentation to support the cost inputs and other assumptions in the forecast. Although Company witness Michael J. Getz, who is the Controller of the Company, offered his opinion that the test-year projections are "reasonable and reliable" (AIC Ex. 3.0, 2:29), he did not provide independent analysis of or detailed support for many of the assumptions underlying those projections. Mr. Getz indicated that the forecasts were based on determinations of staffing changes, resource allocation, and per-unit costs made by department managers, financial

specialists, and other subject-matter experts. *Id.* at 4:71-75. However, these personnel generally did not retain and provide supporting documentation for their determinations as part of this proceeding. AG/CUB Ex. 5.0, 13:293-304. As noted previously, the fiduciary responsibility of utility management is to maximize returns for shareholders by including all foreseeable cost increases while excluding uncertain future cost savings. Without workpaper support to review, it is impossible to discern whether forecast preparers either subtly or explicitly included questionable costs in the Company's test year forecast.

The National Regulatory Research Institute report on future test years that Mr. Brosch included as AG/CUB Ex. 5.5 states that the only way for a utility commission to detect inflation of future projected costs is to "do a thorough review of the assumptions, methodologies and other factors underlying the forecasts." Mr. Brosch observed in his rebuttal testimony that, without documentation retained to support the utility's forecast inputs, the "thorough review" cannot be accomplished. AG/CUB Ex. 5.0 at 19. Mr. Getz argues that the Company's Schedule G-5 shows the forecast's basic assumptions to be reasonable because they are based on historical experience, expected events, and/or detailed modeling. *Id.* at 6. However, Mr. Getz admitted during cross-examination that Schedule G-5 does not list projections of assumed unit costs for motor fuel, postage, insurance premiums or healthcare benefits; rather, Schedule G-5 includes only "principal assumptions." Tr. at 87:20-24. In his rebuttal testimony, Mr. Getz stated that the Company chooses not to "create and maintain an exhaustive set of detailed, indexed and centrally compiled workpapers covering every cost estimate entered into AIC's budget system" because "[t]here is a cost to develop, accumulate and store that level of detailed work papers." AIC Ex. 18.0 at 21. The Company declined to quantify this purported cost in response to an AG data request, however. AG/CUB Ex. 5.6, AIC response to DR AG 18.14(a). If the regulator is being asked to review and accept forecast inputs to determine utility rates, the unstated cost of retaining such records is likely to be much less than the cost to customers if overstated O&M expenses are included in utility revenue requirements. As Mr. Brosch observed in his rebuttal testimony, it would not be burdensome for each budget area to simply retain workpapers when specific data are relied on to develop specific forecast inputs. AG/CUB Ex. 5.0 at 13-14.

Mr. Getz also stated in his surrebuttal testimony that "it is reasonable for the Company, and, more specifically, AIC leadership, to rely on the budgeting judgment of the AIC personnel who are intimately involved, as part of their day-to-day responsibilities, in the activities that ultimately impact the components of AIC's test year forecast" [emphasis omitted]. AIC Ex. 32.0, 12:263-266. If Mr. Getz was attempting to suggest that it would be reasonable for the Commission, in turn, to rely on the Company's judgment in relying on AIC budgeting personnel, he did not specifically explain why such reliance would be reasonable.

Mr. Getz also indicates in his direct testimony, AIC Ex. 3.0 at 6:120-124, that the Company prepared the test-year forecast in accordance with American Institute of Certified Public Accountants ("AICPA") guidelines. AIC retained an accountant to review that the Company's test-year forecast complied with AICPA guidelines, but the engagement letter with that firm indicated that AIC management would provide a representation letter indicating its responsibility for the underlying assumptions and the appropriateness of the financial projection and its presentation. AG/CUB Ex. 1.4. No witness from the accounting firm filed testimony for AIC or attempted to assist in defending the Company's test year forecast. Mr. Getz stated in his rebuttal testimony that he performed a macro review of the test year forecast (AIC Ex. 18.0, 22:485-487), but he admitted during cross-examination that he did not reject or recommend any revision to any of the individual forecast line items. Tr. at 93:5-9. It is difficult to conclude the

test year forecast is reasonable if the Company's Controller did not recommend any change to any of its line items upon review and the external accountant hired to review the forecast did not appear as a witness.

Similarly, AIC witness Craig D. Nelson claimed in his rebuttal testimony that test-year expense forecasts are not "largely subjective estimates," but rather are objectively based on "historical cost information" and "reasonable cost escalators." Nelson stated that forecasters also "identify specific incremental operations/maintenance projects and initiatives as they forecast." AIC Ex. 16.0 at 9-10. However, Nelson does not explain how cost escalation factors are chosen, or what methodology is used to evaluate whether certain incremental projects have satisfactory efficacy or internal rate of return. As AG/CUB witness Brosch observed, the 17 percent increase in operating expense in the forecasted 2014 test year over actual 2012 operating expense suggests that historical information was not the primary driver of the test-year forecast. AG/CUB Ex. 5.0 at 2.

The People also extensively described the Company's failure and refusal to provide detailed workpapers to support its test-year expense forecast. AG IB at 6-8. Company witness Getz, the Company's Controller, repeatedly described the projected expense levels as "reasonable" based on the purported determinations of Company personnel, despite a lack of supporting documentation. The People further described how Mr. Getz admitted during cross-examination (Tr. at 93:5-9) that he did not reject or recommend any change to any of the forecast line items. AG IB at 8. The Company's Controller, it would seem, views all projections by Company personnel as reasonable. Additionally, as previously demonstrated by the People, the accounting firm hired to review the Company's test-year forecast did not file testimony in this case or attempt to assist in defending the forecast. AG IB at 8.

### Conclusion

The People request that the Commission direct AIC to retain complete copies of all forecast calculations and documentation that are relied upon to support each individually material cost and headcount input to its test year forecast and to make such available information immediately available for review in each future rate case that employs a forecasted test year, as recommended in AG/CUB Ex. 5.0 at 22. Any undocumented input values could be marked "judgment" in the workpapers and further explored through data requests. *Id.* at 22. Staff witness Daniel G. Kahle agreed with Mr. Brosch, indicating detailed forecasts with workpapers are necessary to allow an objective review of cost projections. He concluded that the Company should maintain detailed workpapers to document its forecasts; to enable it to support its forecasts; and as a reference for forecasting in future cases. Staff Ex. 11.0R at 19.

In Mr. Getz's surrebuttal testimony, responding to Staff witness Daniel G. Kahle, he states that the Company will commit to provide only limited workpaper documentation in future gas rate proceedings that are based on a future test year, including: (1) Gas only headcount - actual vs. monthly projections through the test year; (2) Gas O&M forecasted test year expenses by FERC account and resource type; (3) a comparison of the most recent calendar year of actual gas O&M expenses with forecasted test year expenses, with written explanations and justifications of significant variances in excess of escalation factors - by resource group within an RMC or roll-up department; and (4) a gas-only headcount staffing forecast with justification of any new employee positions projected to be filled between the filing of AIC's direct case and the end of the test year. AIC Ex. 32.0 at 8. These commitments are a welcome start, but do not include the essential workpapers supporting amounts being input into test year forecasts by Company forecasting personnel which are indicated to be needed by both Messrs. Brosch and

Kahle. The Commission should direct that the Company retain the more robust and detailed supporting documentation for the test-year forecast identified by Mr. Brosch, including retention of copies of all forecast calculations and documentation that are relied upon to support each individually material cost and headcount input to its test year forecast.

## **II. RATE BASE**

### **A. ADIT – Step-up Basis Metro**

The People and Staff propose removing an accumulated deferred income tax (“ADIT”) item of approximately \$1.39 million, related to AIC’s Metro East plant, from AIC’s rate base. This is the remaining amount of an ADIT debit item, which has fallen through amortization over time, that was recorded in 2005 to Account 190<sup>1</sup> of AIC’s then-subsubsidiary CIPS as an equal offset to Metro East-related ADIT in Account 282<sup>2</sup> of CIPS, following CIPS’s acquisition of the plant from an Ameren corporate affiliate. AG/CUB Cross Exhibit 6, Response to MHE 3.02 Attach. The offset to Metro East-related ADIT allowed CIPS to immediately increase its rate base, depriving Illinois ratepayers of the ADIT benefit that had accumulated on the plant during its ownership by Union Electric. The AG/CUB and Staff adjustment would restore a portion of that benefit to Illinois ratepayers.

In 2005, certain electric and gas plant assets comprising the Metro East service territory were transferred from Union Electric, a corporate affiliate of Ameren Illinois, to CIPS, which is now wholly part of Ameren Illinois. Staff Ex. 1.0, 11:187:190. CIPS acquired the asset at its net book value, defined as gross book value less accumulated depreciation reserve. Id. at 11:190-193. Upon acquisition, CIPS stepped up the cost basis of the asset for tax purposes to reflect the net book value. Id. at 193-195.

Immediately prior to the transfer of the Metro East plant, Union Electric’s Account 282 included approximately \$2.684 million of ADIT associated with the Metro East plant. Tr. at 334:5-10; AG/CUB Cross Exhibit 6, Response to MHE 3.02 Attach. Union Electric’s Metro East plant operated entirely within the State of Illinois prior to the transfer to CIPS. Tr. at 343:9. Thus, Illinois gas ratepayers were exclusively receiving the benefit of \$2.684 million of Metro East-related ADIT immediately before the transfer; ADIT is ordinarily deducted from a utility’s rate base. Following the transfer to CIPS, \$2.796 million of deferred taxes were recorded to Account 282 of CIPS, and an offsetting \$2.796 million item in respect of the step-up in tax basis was recorded to Account 190 of CIPS, so that the net ADIT balance related on the books of CIPS the Metro East plant was initially set to zero, and Illinois gas ratepayers lost the ADIT benefit formerly associated with the Metro East plant. AG/CUB Cross Exhibit 6, Response to MHE 3.02 Attach. Meanwhile, the former Metro East-related ADIT entry in Union Electric’s Account

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<sup>1</sup> Under FERC’s standard system of accounts, Account 190 reflects amounts “by which income taxes payable for the year are higher because of the inclusion of certain items in income for tax purposes, which items for general accounting purposes will not be fully reflected in the utility’s determination of annual net income until subsequent years.” 18 CFR § 201. The ADIT item recorded to Account 190 of CIPS reflected CIPS’s decision to step up the tax basis of the Metro East Plant. AIC Ex. 31.0, 16:331-332.

<sup>2</sup> Under FERC’s standard system of accounts, Account 282 reflects “tax effects related to property . . . where taxable income is lower than pretax accounting income due to differences between the periods in which revenue and expense transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income.” 18 CFR § 201. In other words, if accelerated tax depreciation exceeds accounting or “book” depreciation, the tax benefit resulting from the difference is recorded to this account. When accelerated tax depreciation expires prior to the end of the asset’s accounting life, accounting depreciation will exceed tax depreciation of zero, and the ADIT will be gradually reversed over time.



282 was reversed, and a deferred tax liability in respect of Union Electric's taxable gain was recorded to the books of Union Electric. Tr. at 340:19-22; Data Request Response MHE 5.05 (AG Cross-Exhibit 6).

After the transfer, Illinois ratepayers were no longer receiving the benefit of the ADIT item with respect to Union Electric service, because Union Electric was no longer operating in Illinois. Nor was the benefit passed to ratepayers in Missouri, where Union Electric is based: during cross-examination, Company witness Stafford stated that he had no knowledge that Union Electric's deferred tax liability related to the intercompany transfer of the Metro East assets was ever deducted from Union Electric's rate base in Missouri Public Service Commission rate cases following the transfer. Tr. at 337:1-4; 343:3-7.

As Staff witness Everson notes in her direct testimony, the underlying value of the Metro East asset was the same in the hands of CIPS as in the hands of Union Electric, but because the net ADIT value on the books of CIPS related to Metro East was set to zero, the total net rate base of the Metro East plant was made higher, and ratepayers should not be required to support an increase in rate base for the same asset simply because the asset changed ownership. Staff Ex. 1.0, 11:201-12:209. Similarly, AG/CUB witness Effron stated that "utility holding companies should not be allowed to increase the net rate base value of assets by transferring the assets between affiliates." AG/CUB Ex. 2.0, 5:111-6:112. As shown in Staff Ex. 10.0 (Rev.), Attachment A, the Company agreed in its data request response to MHE 10.01 that as a result of the offsetting ADIT step-up basis entry to Account 190 of CIPS, the CIPS rate base increased by approximately \$3.011 million. Mr. Stafford also admitted in his surrebuttal testimony that "Mr. Effron is correct that rate base increased when the asset transfer was made." AIC Ex. 31.0, 16:320. While the step-up basis entry in Account 190 has been gradually decreasing over time through amortization, according to Company witness Stafford (Tr. at 344:13-17), and as shown in the response to MHE 12.02 Attach (AG Cross-Exhibit 6), it is still positive.

Mr. Stafford stated in his surrebuttal testimony that ADIT on most of the Metro East assets will be increasing on AIC's books in 2014 and that "it is likely that the ADIT deduction for the transferred assets would actually be greater under AIC's proposal to maintain the step-up offset entry, than if the transfer had not taken place." AIC Ex. 31.0, 18:377-382. He also estimated during cross-examination, without explaining his precise method of calculation, that after five years in the hands of CIPS, the ADIT balance related to Metro East had increased (due to amortization of the Account 190 item and new deferred tax recorded to Account 282) to the point that it equaled what the ADIT balance would have counterfactually been in the hands of Union Electric. Tr. at 353:4-20. However, that is not the relevant comparison. The relevant comparison is whether rate base with the Step-Up Basis entry in Account 190 is higher than rate base without that entry. Moreover, Staff and the People are not advocating removing the original post-merger 2005 value of the Step-Up Basis item in Account 190, but rather the value as of the test year, as Mr. Stafford acknowledged during cross-examination. Tr. at 358:14-17. The Step-Up Basis item in Account 190 was approximately \$1.29 million as of the end of 2012. AG Cross-Exhibit 6, Response to MHE 12.02 Attach.

Mr. Stafford argued in his surrebuttal testimony that, because tax depreciation on the transferred assets was reset to year 0 of a twenty-year schedule immediately after the transfer, a full amount of ADIT will eventually accrue on the Metro East assets and will be deducted from AIC's rate base; to also include the ADIT that was recorded on Union Electric's books just before the transfer would comprise "double counting." AIC Ex. 31.0 at 19:390-402. However, the People urge that Illinois ratepayers should receive that benefit sooner rather than later; as Mr.

Stafford admitted during cross-examination, “a dollar today is worth more than it will be ... a year from now or two years from now.” Tr. at 357:12-14.

In conclusion, it is inappropriate to allow the Company and its corporate affiliates to increase rate base for ratemaking purposes solely by transferring an asset between corporate affiliates. The proposal of AG/CUB and Staff is that ADIT should be reduced by \$283,000 in Rate Zone I (Staff Ex. 10.0 (Rev.), Sch. 10.09 RZ I (Rev.)), \$389,000 in Rate Zone II (Staff Ex. 10.0 (Rev.), Sch. 10.09 RZ II (Rev.)), and \$718,000 in Rate Zone III (Staff Ex. 10.0 (Rev.), Sch. 10.09 RZ III (Rev.)).

## **B. Pension/OPEB Expense – Employee Benefits Adjustment**

The People presented an adjustment that seeks to reduce the Company’s request for Pension and Other Post-Employment Benefits (OPEB) Expenses by approximately \$3.9 million and reduce rate base by approximately \$444,000. AG/CUB Exhibit 2.2. In AIC witness Mr. Nelson’s surrebuttal testimony, the Company agreed to reflect the Pension/OPEB adjustments recommended by the People. AIC Ex. 30.0 at 4. The Company added three cost increases identified in Mr. Nelson’s rebuttal testimony to correlate with the decrease in Pension/OPEB. See AIC Ex. 16.0 (2d rev.) at 6. The People do not take a position on these increases.

## **C. Cash Working Capital**

### **1. Pass-Through Taxes Lead Days**

The expense lead day values for the Illinois Gas Use and Gas Revenue Tax (“Gas Tax”), Municipal Utility Tax (“MUT”) and Energy Assistance Charge (“EAC”) advocated by AG/CUB witness Brosch, Staff witness Daniel G. Kahle, and Company witness David A. Heintz in this proceeding are as follows:

	<u>Gas Tax</u>		<u>MUT</u>		<u>EAC</u>	
	Rev. Lag	Payment Lead	Rev. Lag	Payment Lead	Rev. Lag	Payment Lead
AG/CUB witness Brosch	0.00	(29.79) <sup>3</sup>	0.00	(45.63) <sup>4</sup>	0.00	(41.84) <sup>5</sup>
Staff witness Kahle	0.00	(29.79) <sup>6</sup>	0.00	(45.63) <sup>7</sup>	0.00	(41.84) <sup>8</sup>
Company witness Heintz	0.00	(1.0) <sup>9</sup>	0.00	(15.00) <sup>10</sup>	0.00	(4.00) <sup>11</sup>

<sup>3</sup> AG/CUB Ex. 5.0, 64:1589-1592.

<sup>4</sup> AG/CUB Ex. 5.0, 64:1571-1572

<sup>5</sup> AG/CUB Ex. 5.0, 60:1478-1489.

<sup>6</sup> Staff Ex. 2.0, 7:133-134.

<sup>7</sup> Staff Ex. 11.0R, 10:191-196.

<sup>8</sup> Staff Ex. 2.0, 5:94-106.

<sup>9</sup> AIC Ex. 12.1.

<sup>10</sup> AIC Ex. 12.1.

<sup>11</sup> AIC Ex. 12.1.

The People's justification for its payment lead positions with regard to these three taxes is as described below. In general, the People advocate a longer payment lead than the Company does because the People take into account the longest legally allowed time that the Company may hold pass-through tax funds, rather than any custom the Company may have of paying the taxes to authorities earlier than required.

#### Gas Tax

Mr. Heintz justifies his proposed payment lead for the Gas Tax based on a determination that the Company has access to the funds for one day prior to remitting the funds to the Illinois Department of Revenue. AIC Ex. 12.0, 8:160-163. However, Gas Tax funds are required to be remitted by the 15th day of the month following the month in which receipts are *collected*, pursuant to 35 ILCS 173/Article 5, Sections 5-10 and 5-35 and the Department of Revenue's instructions for Form RG-1.<sup>12</sup> As Mr. Kahle observes, the Company is remitting Gas Tax funds earlier than due. Staff Ex. 2.0, 10:200-202. In general, the People urge that ratepayers should not be penalized with a higher cash working capital requirement in the Company's rate base because the Company is remitting pass-through tax funds earlier than required under law.

Staff witness Kahle argues that a payment lead time of 29.79 days for the Gas Tax is appropriate based on the requirement that the Company remit Gas Tax funds by the 15th day of the month following each month of service; collection in the midpoint of the month of service, on average, results in a calculation that the Company has access to the Gas Tax funds for approximately 29.79 days. Staff Ex. 2.0R, 7:141-147. This is also the payment lead time calculated by the Company on its WPB-8, found at AG/CUB Ex. 5.14, page 4. Mr. Brosch supports Mr. Kahle's proposed Gas Tax payment lead at page 65 of his rebuttal testimony, AG/CUB Ex. 5.0.

#### MUT

The MUT is legally imposed as a tax on "Gross Receipts," 65 ILCS 5/8-11-2(4)(d); there is thus a delay between service provision by the Company and payment of MUT (and EAC) funds, because the Company is not required to remit the funds to local taxation authorities until after receiving payment thereof from customers. AG/CUB Ex. 1.0, 42:989-992.

Mr. Brosch justifies his proposal for MUT payment lead days by assuming that the Company collects the MUT funds by the midpoint of the month following the month of service and then remits the funds at end of the subsequent month. AG/CUB Ex. 5.0 at 62:1560-1563. Mr. Kahle supports Mr. Brosch's proposal for MUT payment lead days, as shown in Staff Ex. 11.0R at 10:191-193. 45.63 days is also the MUT payment lead day amount sponsored by Company witness Ronald D. Stafford in the Company's WPB-8, found at AG/CUB Ex. 5.14, page 3.

Company witness Heintz justifies his proposed payment lead for the MUT based on the Company's practice of remitting the MUT funds approximately 15 days after receiving the funds from customers. Ex. 12.0, 7:127-131; AIC Ex. 25.0, 10:177-182. This calculation is based on the Company's practice of remitting the funds on the last day of the month following the month of service. AIC Ex. 12.0, 7:123-124. However, Mr. Heintz admits that with respect to both the EAC and MUT, the Company could hold the funds for approximately one additional month before remitting the funds to taxing authorities. AIC Ex. 25.0, 5:80.

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<sup>12</sup> Illinois Department of Revenue, Form RG-1 Instructions, <http://tax.illinois.gov/TaxForms/Misc/Gas/RG-1-Instructions.pdf>, last accessed October 7, 2013.

## EAC

Similar to MUT fund receipts, EAC funds are statutorily required to be remitted by the 20th day of the month following the month of *collection*. 305 ILCS 20/13(f). Also, a utility is required to remit to state authorities “moneys received as payment of the Energy Assistance Charge,” rather than remitting EAC as a tax calculated as a percentage of the value of services provided, under 305 ILCS 20/13(f). This language makes the EAC a purely pass-through tax.

Mr. Brosch also supports the EAC payment lead day proposal of 41.84 days offered by Staff witness Kahle in Mr. Kahle’s direct testimony. AG/CUB Ex. 5.0, 62:1522-1523. As Mr. Kahle noted, the Company’s WPB-8 correctly calculates an EAC payment lead time of 41.84 days, based on collection of EAC moneys by mid-month after the month of service, payment on the 20th day of the month after collection, and approximately 7 days of bank float payments. Staff Ex. 2.0R, 6:124-129; AG/CUB Ex. 5.14, page 3.

Mr. Heintz justifies his proposed payment lead for the EAC based on the Company’s practice of remitting the EAC funds approximately 4 days after receiving the funds from customers. AIC Ex. 12.0, 6:115-119; AIC Ex. 25.0, 12:228-230. This calculation is based on the Company’s practice of remitting the EAC funds by the 20th day of the month following the month of service. Ex. 12.0, 6:109-110. However, the People’s position is superior because it recognizes that the Company could benefit ratepayers by holding the funds for approximately 30 days longer under applicable tax law.

## Recent Commission Orders

As AG witness Brosch indicated in his Direct Testimony, the revenue lag day and expense lead day values approved by the Commission for the MUT and EAC in recent electric formula rate case orders were as follows:

	<u>MUT</u>		<u>EAC</u>	
	Rev. Lag	Payment Lead	Rev. Lag	Payment Lead
AIC Docket 12-0001	0.00	(48.54)	0.00	(38.54)
AIC Docket 12-0293	0.00	(48.54)	0.00	(38.54)
ComEd Dkt 11-0721	0.00	(44.22)	0.00	(40.69)
ComEd Dkt 12-0321	0.00	(40.11)	0.00	(40.69)
<b>AIC Proposal</b>	0.00	<b>(15.00)</b>	0.00	<b>(4.00)</b>

AG/CUB Ex. 1.0, 40:944-947.

## Company’s Suggested Barriers to Changing Payment Times

Mr. Heintz expressed concern that the Company would be required to skip a month of MUT and EAC payments if the Commission adopted the People’s and Staff’s proposed MUT and EAC payment lead days in this proceeding (AIC Ex. 25.0, 13:239-241), but Mr. Brosch stated that to his knowledge, neither AIC nor ComEd has skipped a monthly payment of MUT and EAC after the Commission adopted precisely these positions in the two most recent electric formula rate cases of each company. AG/CUB Ex. 45:1058-1061.

Mr. Heintz argues that the Company’s EAC and MUT returns are “subject to periodic audit” by taxing authorities and have never been found to be noncompliant through premature remittance (AIC Ex. 39.0, 3:60-66). However, Mr. Heintz does not indicate how frequently such audits have actually occurred, and he does not explain why a taxing authority would want to express any concern when an entity subject to taxation pays the tax early. Mr. Heintz also warns that “counsel advises there may be some legal impediments to the AG/CUB approach that warrants further study,” (AIC Ex. 25.0, 13:236-237), but he does not explain what legal impediments would prevent Ameren from timing its EAC and MUT payments to taxing

authorities in a way that minimized their impact on rates while complying with statutory deadlines.

Mr. Heintz also argues that if the Commission adopts the People's and Staff's proposed expense lead days, the Company would be required to modify its remittance practices, and would thus incur an "incremental expense." AIC Ex. 39.0, 4:78-83. This argument fails for two reasons. First, Mr. Heintz does not make any attempt to quantify the incremental expense of modifying the Company's remittance practices. Second, he does not explain why the Company has not already modified its practices following the Commission's decisions in Docket Nos. 12-0001 and 12-0293; his only justification is that the Commission's decision in the Company's electric formula rate proceeding is inconsistent with the Company's most recent gas rate case, which pre-dated the electric formula rate cases; apparently the Company is still relying on the Commission's position from the 2011 AIC gas rate case. However, the Company's MUT and EAC remittance practices are identical in the two cases, so the Company should not have relied on the Commission's choosing to change its position in the context of electric service but maintain it for gas service. According to Mr. Heintz, not only has the Company not changed its remittance practices; the Company has not even undertaken a thorough review of the changes required to modify the remittance date. AIC Ex. 25.0, 8:144-147.

#### Conclusion

In conclusion, the People request that payment lead times for the three pass-through taxes discussed herein should be based on the time that the Company has access to the funds, rather than the shortened time that the Company keeps the funds due to its discretionary decision to remit the tax funds earlier than required by law. The Commission should adopt the People's adjustment to cash working capital found at pages 7-9 of AG/CUB 5.1, including approximately \$850,000 for Rate Zone I, \$854,000 for Rate Zone II, and \$1,950,000 for Rate Zone III.

### **III. Operating Revenues and Expenses**

#### **A. Pension/OPEB Expense - Employee Benefits Adjustment**

The People presented an adjustment that seeks to reduce the Company's request for Pension and Other Post-Employment Benefits (OPEB) Expenses by approximately \$3.9 million and reduce rate base by approximately \$444,000. AG/CUB Exhibit 2.2. In AIC witness Mr. Nelson's surrebuttal testimony, the Company agreed to reflect the Pension/OPEB adjustments recommended by the People. AIC Ex. 30.0 at 4. The Company added three cost increases identified in Mr. Nelson's rebuttal testimony to correlate with the decrease in Pension/OPEB. See AIC Ex. 16.0 (2d rev.) at 6. The People do not take a position on these increases.

#### **B. Non-Union Wages**

#### **C. Forecasted Labor Expenses**

##### Proposed Adjustment

The Company originally proposed to fill 87 additional employee positions from the time of its filing until the end of 2014, including 66 during 2013 and 21 during the 2014 future test year. AIC Ex. 22.0, 22:485-486. The total of 87 proposed incremental positions was later revised to 86; see AG/CUB Ex. 1.5, page 1 (Company response to DR AG 1.03R). The 86 new employees are a projected increase of 13.4 percent of gas-only personnel from March 2013 to

January 2014. AG/CUB Ex. 1.0, 21:484-490; AG/CUB Ex. 1.5, pages 4-5, AIC response to AG DR 5.03R Attach.

However, the Company failed wholly to provide detailed support showing the need for each and every one of these new positions. Thus, AG/CUB witness Michael Brosch proposed in his rebuttal testimony that the Commission exclude from test-year expenses the estimated revenue requirement impact of hiring half, or 43, of the proposed new employees, minus a \$311,000<sup>13</sup> adjustment for filling AIC's employee vacancies, which translates in sum to a \$3,611,794 adjustment, based on figures provided by the Company.<sup>14</sup> AG/CUB Ex. 5.1, Page 1. The rate zone allocation of this adjustment is shown on AG/CUB Ex. 5.1, Page 1.

The Company stated during rebuttal testimony, which was filed over four months after the initial filing, that 24 positions were filled during March, April, May, and June of 2013, leaving 42 remaining positions to be filled in the final six months of 2013. AIC Ex. 22.0, 22:486-488; AIC Ex. 22.8. Company witness Stephen R. Colyer states in his rebuttal testimony that 4 additional job offers had been accepted as of July 3, 2013, with starting dates yet to be determined. *Id.* at 23:496-497. Mr. Brosch showed in his rebuttal testimony that based on data provided in Mr. Colyer's rebuttal testimony and in the Company's response to AG data requests, it appears that the AG/CUB position with respect to gas-only staffing results in a higher 2014 staffing level than at any time during January through June of 2013. AG/CUB Ex. 5.0, 24:604. Lack of Documentation for Proposed Incremental AIC Positions

Mr. Brosch stated in his direct testimony that "AIC seems to be either unable or unwilling to provide supporting documentation indicating the basis or support for its test year FTE inputs to the budget system, and the resulting labor driven O&M expenses derived from such inputs." AG/CUB Ex. 1.0, 17:370-373. AG/CUB Ex. 1.6 shows extensive discovery requests made by the People to the Company to understand the detailed basis for the proposed increase in staffing needs during the test year. The Company's response to DR AG 1.03 supplies only generalized reasons for filling new positions, without any analysis of work requirements or labor demand. The Company's response to DR AG 1.04, which asked for "in detail the step-by-step procedures employed to develop the labor cost forecast for the test year," gave only a narrative discussion of the logistical steps and organizational process used to determine a future budget, rather than a detailed analysis of business needs with respect to each and every proposed new hire. The Company's response to DR AG 3.14, which asked for a comparison of historical to forecasted staffing counts and an explanation of need, referred to the Company's responses to DRs AG 1.03 and 1.04, and objected to the request for analytic work as "unduly burdensome" (AIC response to DR AG 3.14(d)). In response to DR AG 5.01(a), which asked for a more detailed description of the budgeting process used by each area of AIC, the Company stated that "AIC [does not] require analyses, calculations, work papers and/or projections for each and every labor hour/dollar budgeted." The Company also provided numerous confidential documents as a response to DR AG 5.01(b), but these documents did not contain supporting analysis used to determine the number of required staff in each budget area. A request for supporting documentation in DR AG 12.02 resulted in an objection from the Company on the grounds that the request was argumentative and for other reasons. A request for listing of "new or additional activities" (as described in Mr. Colyer's rebuttal testimony) that were driving expenses up stated that "[n]o list of specific activities determined not to be 'necessary' was formally created and

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<sup>13</sup> AIC Ex. 18.0, 14:275-279.

<sup>14</sup> AG/CUB Ex. 1.5, Page 6, Company response to DR AG 5.03R Attach 3.

tracked during the course of the preparation of the 2014 forecast.” AG/CUB Ex. 5.04, Page 2, AIC response to DR AG 20.04(b).

As Mr. Brosch observed in his direct testimony, it would be feasible for a utility such as AIC to track and document levels of work such as the number and severity of leak response calls, quantities of monthly meter reading, and so forth in order to provide quantification of any work backlog that exists due to inadequate staffing levels. AG/CUB Ex. 1.0, 19:451-456. Mr. Brosch observed that the Company could also track data on overtime hours or outside contractor charges for supplemental labor in order to support a need for extra staff. Id. at 19:458 to 20:461. The Company also provided no information showing that its existing levels of staffing are causing any service reliability, safety, or regulatory compliance issues. Id. at 20:464-475.

Staff witness Daniel G. Kahle stated during cross-examination that he did not receive any work papers from the Company that supported each of the Company’s proposed new employee positions for the test year. Tr. at 420:5-8. He also stated in his rebuttal testimony that, echoing Mr. Brosch’s view, detailed forecasts with work papers are necessary to allow an objective review of cost projections. Staff Ex. 11.0R at 19:392-393. Although Kahle stated in his rebuttal testimony that Mr. Brosch did not identify any specific activities that he considered unnecessary for the company to perform (Id. at 18:371-373), Kahle also stated on cross-examination that “whether or not you could determine [what activities are necessary for new employees to perform in the test year] would depend on whether or not you found enough information in the data request responses, whether or not they were nice and tidy and easy to go through which you might expect a work paper to be.” Tr. at 423:5 to 424:20. Kahle then stated that “I could tell from the back and forth with data requests that [Brosch] was having a difficult time accumulating information he desired” [regarding labor forecasts] (Tr. at 425:8-10) and that the information provided by the Company to Mr. Brosch during discovery regarding labor expense “wasn’t tied up like you might expect a CPA’s work papers.” Tr. at 424:6-7. Mr. Kahle stated in response to a cross-examination question that the Company’s work papers in relation to the test year labor forecast were not nice and tidy. Tr. at 425:12-20. Kahle stated that “it would be nice to have at least a schedule you can follow through as if a third person would come in without assistance and tie all the way through to the genesis of the forecast.” Tr. at 425:21 to 426:1. Thus, although Kahle emphasized in his testimony the importance of identifying unnecessary activities in order to recommend a labor adjustment, he noted during cross-examination that Mr. Brosch lacked the requisite information to make such identification.

Company’s Inadequate Support for Proposed Incremental Positions

The Company provided a chart at AIC Exhibit 36.2 purporting to explain the reason for the 42 positions to be filled during the remainder of 2013. However, 23 of these positions were Journeyman / Apprentice positions with the sole explanation “ATTRITION Need is based on existing and ongoing work levels.” One Supervisor position under Gas Operations Support is justified as “needed to support additional gas apprentice training workload due to greater number of gas apprentices,” but this begs the question, as the 23 new gas journeyman / apprentice positions were not credibly justified. Another Supervisor position under Gas Operations Support is justified as needed based on “ATTRITION Supervise gas storage to ensure safe and effective gas storage construction, operations, and maintenance,” but no support for the appropriate number of gas storage supervisors is given. Six Supervisor positions under IL Construction Services are justified as: “ADDITIONAL HEADCOUNT Responsible for the inspection and oversight of construction, operations, and maintenance activates [sic] performed by contractors,” but there is no detailed explanation as to why six new supervisors are needed to perform this

task. Mr. Colyer states in his surrebuttal testimony that these positions have been “deemed essential,” but does not explain why they are essential or who within the Company did the “deeming.” AIC Ex. 36.0, 8:155. Mr. Colyer explains the discussion process within the Company that leads to recommendations for additional staffing, but he does not provide a summary of any these discussions. Id. at 10:197 to 11:229. He asserts that the six construction supervisor positions are essential to perform the described job duties, but does not explain why; he also states that the journeyman / apprentice positions are essential, but does not explain why that particular number is needed and not some higher or lower number. Id. at 12:239-254. Mr. Colyer also states that he is “intimately familiar with the need for [the] additional labor resources” proposed for 2014, but he does not explain in detail why they are essential to complete planned activities. Id. at 13:268.

The Company also provided a chart at AIC Exhibit 36.3 purporting to justify the 21 positions proposed to be filled during 2014. Mr. Colyer explained this chart further in his surrebuttal testimony. He points to the Company’s forecast of 6 additional engineers for integrity management programs and repeats the associated job description listed on AIC Ex. 36.3; however, he does not explain why 6 engineers, as opposed to 3 or 9 engineers, are necessary to complete projected work. AIC Ex. 36.0, 13:271-276. Similarly, he cites the forecasted addition of 3 records management positions listed in AIC Ex. 36.3 and calls these positions “essential” to manage certain record and data management activities, but he does not explain why 3 such positions are necessary. Id. at 14:277-285. Mr. Colyer cites the “criticality” of “continual improvement” in integrity management and records management activities under applicable pipeline safety laws, but he makes no attempt to justify the discrete choice of 6 integrity management engineers and 3 records management personnel. Id. at 14:287 to 15:311.

Mr. Colyer states in his rebuttal testimony that, although the Company is providing safe and reliable gas service as of the time of testimony (July 10, 2013), current staffing levels will not be sufficient to perform work planned in 2014, which is beyond the scope of 2013 work. AIC Ex. 22.0, 21:452-456. However, he does not explain the precise incremental programs, or discrete portions thereof, that the 21 new employees in 2014 will be required to support.

In general, it appears that the Company is taking for granted that historical staffing levels are necessarily justified, without regard for potential efficiencies. Indeed, Company witness Michael Getz stated in his rebuttal testimony that if employee headcount is not expected to change, there is no need to document the need for that particular staffing level; the only assumption required for developing the cost forecast thereof would be the forecasted wage rate escalator. AIC Ex. 18.0, 21:456-461. Additionally, the Company’s response to Data Request AG 5.01(a), contained at AG/CUB Ex. 1.6, Page 8, confirms that “[e]ach ‘area’ does not start at zero dollars when budgeting its annual costs.”

### Conclusion

The Company’s test-year forecast for employee hiring does not contain the detailed support through workpapers and analysis of work needs that would justify 86 additional employees from the filing date of this case until the end of 2014, including 21 new employees in 2014. In light of the Company’s gross failure to adequately document its incremental staffing needs at a detailed level, the People recommend that the Commission should disallow 50% of the proposed new employees, or 43, with a revenue requirement impact of \$3,611,794, after accepting an approximately \$311,000 offset of an employee vacancy factor suggested by the Company.



In the event that the Commission agrees with AIC that increasing gas-only staffing by only 43 positions from the February 2013 level is inadequate, the People recommend that the Commission authorize the Company to maintain a 2014 gas-only payroll at its forecasted 2013 year-end level of 706, excluding the 21 additional employees that the Company proposes to hire during 2014. This exclusion would reduce test-year operating expenses by \$1,238,253, as shown in AG/CUB Ex. 5.07, Page 4 (Company's response to DR AG 20.16 Attach).

#### **D. Forecasted Non-Labor Expenses**

The Company seeks recovery of significantly higher test year O&M expenses that are approximately 17 percent above 2012 actual overall expense levels. AG/CUB witness Mr. Brosch explained in his testimony that most of the Company's test year forecast was not supported by any workpaper documentation, which greatly limited the ability to review the basis for the test year forecast. However, in the limited instances where the Company has provided enough data to isolate apparent overstatement of projected costs in the test year, Mr. Brosch reviewed the Company's projected expenses and concluded that the Company's non-labor forecast should be reduced by almost \$1.65 million. AG/CUB Ex. 1.0 at 22, AG/CUB Ex. 5.1, page 2. These individual adjustments are discussed in greater detail below.

##### **Integrity Management – Accelerate Leak Repairs (DIMP)**

The Company requested \$1.3 million in additional expenses above historical levels for funding of accelerated leak repairs. The People recognize the importance of pipeline safety and encourage the Company to continue its efforts to comply with safety regulations. Therefore, the People agree with the Company that their asserted leak repairs require increased attention. AG/CUB Ex. 5.0 at 35. Based on the Company's leak experience statistics and additional justification provided to Mr. Brosch (AG/CUB Ex. 5.8), the People accept that a greater level of repairs (over the historical level) is required and the People also believe that the Company justified its per-repair costs. AG/CUB Ex. 5.0 at 35. However, in order to ensure a reasonable forecast of expenditures, Mr. Brosch adopted the mid-point of AIC's targeted repair volumes as a reasonable and realistic expectation of the work the Company will be able to perform. *Id.* The People, therefore, recommend allowing the Company to recover \$1,012,500 for expenses related to the DIMP leak repairs, representing a 22% reduction in the Company's forecasted expense increase in this area. See AG/CUB Ex. 5.1.

The People argue that they demonstrated the fairness of their proposed revised forecast amount of \$1,012,500 for Distribution Leak Repairs in their Initial Brief. AG IB at 27-28. This proposal still represents a significant increase above the Company's historical spending in this area – which in the past has been zero. AG IB at 27; AG/CUB Ex. 5.0, page 1, line 2. The Company acknowledges that the People's estimate will allow it to address additional future added leaks. AIC IB at 35. However, the Company incorrectly claims that the People's proposed amount of incremental funding is insufficient. AIC IB at 34-35. Rather, the People recommended a reasonable level of 400 incremental repairs per year – above and beyond what the Company has historically conducted. AG IB at 27. Nonetheless, the Company suggests that 400 incremental repairs will not reduce the backlog of leaks that already that will remain unrepaired at the end of 2013. AIC IB at 35.

The Company's assertion that it must catch up with its backlogs is unsupported by the data in this docket. The People fairly adopted a forecast amount falling in the mid-point of AIC's targeted incremental leak repair volumes as well as the Company's estimated cost per repair. AG IB at 28. Throughout this docket, the People have agreed that the leak identification

and repair volumes indicate the need for more spending on leak repair contractors. See AG/CUB Ex. 5.0, Figure 2. However, the challenges and uncertainties involved in predicting future new leak volumes argues for adopting the mid-point of the Company's estimates, as the People have recommended. AG IB at 27; AG/CUB Ex. 5.0 at 35. The inherent uncertainties in crafting these projections certainly do not translate into a sudden and urgent need to adopt the Company's worst case scenario "high end" projections. See AIC IB at 35. Rather, given the reasonableness of the People's modest adjustment to the Company's proposed forecast and given the forecasting bias faced by AIC management as described by Mr. Brosch and in the NRRI report, the People request the Commission to adopt the recommendation described herein. AG/CUB Ex. 5.0 at 16-17; AG/CUB Ex. 5.5.

#### Integrity Management – Integrity Management Support

Given a review of AIC's actual to-date spending, as well as detailed forecast and cost estimates provided in response to the People's discovery requests, the People accept AIC's forecasted \$1,100,000 increase to forecasted expense levels for integrity management support. See AG/CUB Ex. 5.1

#### Right of Way Clearing

AIC has proposed a large expansion of activity and spending on the clearing and marking of gas pipeline Rights of Way that would increase historical expense levels by \$1.2 million annually, compared to historical spending of \$50,000 in 2011 and \$170,000 in 2012. The People seek to moderate the Company's \$1.2 million forecast expansion for these expenses related to high pressure right of way (ROW) clearing for leak survey inspections and DIMP programs. AG/CUB Ex. 5.1 at p. 2, line 4. The Company's projected forecast for ROW clearing continues the regrettable trend in this docket of unrealistic projections that are not rooted in actual historical experience. Accepting the Company's projections exposes ratepayers to much higher forecasted expenses that may never occur. Therefore, the People recommend reducing this amount and allowing recovery of \$600,000, an amount still vastly exceeding historical actual spending levels.

In their Initial Brief, the People presented a reasonable recommendation seeking to moderate the Company's potentially overstated forecast for expenses related to high pressure distribution right of way (HPD ROW) clearing for leak survey inspections and DIMP programs. AG IB at 28-29; AG/CUB Ex. 5.1 at p. 2, line 4. In the most recent past years (2011 and 2012), the Company spent no more than \$170,000 on this activity. AG IB at 28. The Company claims that it will spend \$1,200,000 in 2014 on HPD ROW clearing. AIC IB at 35. This number is not only out of line with historical spending, but it exposes ratepayers to paying for an activity that will not likely be completed. AG IB at 28. Therefore, the People proposed a reasonable allowance of \$600,000 for this incremental new activity. AG IB at 28.

For wooded areas in need of clearance, the Company's estimate is unreliable because it is based on historical costs to clear wooded ROW. These costs have fluctuated greatly and were somehow lower in years with greater volumes of work. AG/CUB Ex. 5.9. Somehow, the cost per mile of clearance in 2009 was ten times the actual cost per mile in 2010. Therefore, instead of basing the 2014 forecast on this anomalous year, the People propose basing the costs on those that occurred in 2010, with an escalation for inflation. Assuming, for argument's sake, that the Company is able to clear its estimated 75 miles of wooded ROW per year (which the People dispute) over the next ten years, AIC would be in a position to negotiate favorable rates for the

process. AG/CUB Ex. 5.0 at 36. Therefore, based on the 2010 actual cost per mile of \$3,589, the People recommend an inflation-escalated cost per-mile cost of \$5,000 for a total of \$375,000 for the estimated 75 miles. For non-wooded areas, AG accepts the Company's estimated cost of \$225,000. When combined with the AG forecast of \$375,000 for wooded areas, the total amount for ROW clearing is \$600,000.

AIC witness Mr. Colyer claims that if the People's adjustment is accepted, the Company will be limited to 50% of the clearing of HPD ROW for 2014, which would extend the program to 20 years. AIC Ex. 22.0 (Rev.). at 31. This is a highly unlikely outcome and even if true would represent significantly higher activity and cost levels than AIC has viewed as necessary to incur in 2011 or 2012. First, as stated above, the company's estimates are overstated due to inclusion of the 2009 figures. Second, the Company has not demonstrated its historic ability to clear as much work as it is projecting. The Company seeks recovery for clearing approximately 75 miles per year over the next ten years. AIC Ex. 36.0 at 19. Historically, the Company has not come close to spending this amount of money or achieving this level of clearance. See Tr. at 159-160; AG/CUB Ex. 5.0 at 36. In fact, in two of its busiest past recent years, the Company did not even come close to clearing half of that amount. Tr. at 173. Therefore, the People urge the Commission to adopt their reasonable revised test year forecast for ROW clearing. AG/CUB Ex. 5.1 at p. 2, line 4.

Despite the reasonableness of this proposal, the Company protests that the People "arbitrarily" arrived at their projected level of funding, that the People's proposal results in an "inaccurate forecast," and will unnecessarily extend its ten-year clearing plan to 20 years or longer. AIC IB at 36. Quite simply, the record evidence in this docket demonstrates that there is nothing arbitrary about the People's proposed forecasted amount for HPD ROW clearing. It is based upon an allowance of \$600,000 for this incremental new activity, as described in Mr. Brosch's testimony, assuming that,

When AIC mobilizes contractors to systematically commence HPD clearing at a rate of 75 miles of wooded ROW per year, over each of the next ten years, the Company should be positioned to negotiate favorable rates from vendors. With this in mind, I have included an estimated per mile cost of \$5,000 per mile to escalate 2010 actual incurred costs for inflation and recommend Commission approval of \$375,000 in place of the \$975,000 proposed by AIC for this element of its non-labor expenses.

AG/CUB Ex. 5.0, 38:948-956.

Despite this, the Company argues that AG/CUB witness Mr. Brosch's reliance upon the Company's own 2010 data is an unfair representation. AIC IB at 36-37. The Company claims that in that 2010, clearing of transmission lines was nearly complete and workers encountered fewer wooded areas per mile. AIC IB at 36. Therefore, the Company pushes for the Commission to consider the 2007, 2008, and 2009 transmission line data as being more representative of actual clearing costs. AIC IB at 36. The reliance upon 2010 data by Mr. Brosch is proper, as this is the most recent available data for a year when more than 25 miles of HPD ROW clearing of wooded areas occurred. AIC's insistence upon including 2009 data when only about 10 miles of clearing occurred tends to overstate costs per mile and is likely to not be indicative of unit costs when much higher volumes of work (75 miles per year) are assumed to be undertaken.

Mr. Brosch explained the forecasting bias faced by utility management in preparing an expense forecast that will be used to determine rate levels and this bias is confirmed by the NRRI study cited by Mr. Brosch. AG/CUB Ex. 5.0 at 17-18; AG/CUB Ex. 5.5. When the Company does commence its newly expanded HPD ROW clearing effort, scheduled to start in the 2014 test year, the uncertainties regarding clearing conditions and unit costs argues for Commission approval of the more conservative estimated cost levels proposed by AG/CUB. The Commission will have an opportunity to review progress and unit costs actually incurred by AIC in future rate cases to verify the Company's commitment to actually commence this work and spend at targeted levels. Therefore, the People urge the Commission to adopt the proposed funding of \$600,000 for ROW clearing as presented in the People's Initial Brief.

#### Cross Bores

The AG proposes a modest \$50,000 reduction to the Company's forecasted expense increases for Sewer Cross Bore inspection work. AG/CUB Exhibit 5.1 at page 2, line 5. AG/CUB witness Mr. Brosch arrived at this forecast adjustment by including the lower end of AIC's estimated range of 2,000 services being inspected at an estimated cost of \$250 per service. AG/CUB Exhibit 1.3, page 2, footnote (b). The People's allowance will be sufficient for AIC to comply with any safety regulations given the Company's awareness of the cross bores threat to the integrity of its gas distribution system for several years now. The Company has inspected and corrected cross bores at a historically modest pace. In 2011, the Company conducted 357 inspections at a total cost of \$52,800. AG/CUB Exhibit 3.12. In 2012, the Company conducted 1,596 inspections at a total cost of \$417,000. *Id.* Given these recent historical and actual figures, the People's recommendation of \$500,000 based on AIC's own estimated volumes and unit costs is reasonable.

The People note that the Company contends, however, that its proposed costs for sewer cross bores inspections is reasonable given the historical costs associated with this project and its projections to increase the scope of the project. AIC IB at 37. In so arguing, the Company again claims that the People's proposed funding is "arbitrary" and would not support the number of inspections planned for the test year. AIC IB at 37.

First and foremost, the People's adjustment to the Company's proposed level of funding is not arbitrary. Rather, it is based upon the Company's own estimate of 2000 services being inspected at an estimated unit cost of \$250 per service. AG witness Mr. Brosch explained that he "accepted AIC's estimated unit cost of \$250 per inspection, but used the lower end of the range of the Company's planned inspections of 2,000 per year." AG/CUB Ex. 5.0, 39:980-40:985. Secondly, Mr. Brosch further explained that there is a forecasting bias that utility management faces in preparing an expense forecast that will be used to determine rate levels. AG/CUB Ex. 5.0 at 17-18. This bias is confirmed by the NRRI study documentation contained in AG/CUB Ex. 5.5. The Commission will have an opportunity to review progress and unit costs actually incurred by AIC for sewer cross bore inspections in future rate cases to verify the Company's commitment to actually undertake this work and spend at targeted levels. Therefore, the People urge the Commission to adopt the People's proposed level of funding for this project.

#### Watch and Protect Damage Protection Program

The Company forecasts \$650,000 of non-labor expenses for expansion of the Watch and Protect Program. The People propose a smaller expense increase, reducing the Company's forecast by of \$250,000 to this request to provide a \$400,000 expense allowance that better

reflects historical expenses and costs associated with the program. AG/CUB Ex. 5.1, p. 2, line 6. The People accept the Company's estimated volume of work. AIC Ex. 22.0(Rev.) at 35. However, Mr. Brosch, in his analysis, recommended applying a per-unit cost of \$100 per transaction instead of the Company's estimate of \$162.50. AG/CUB Ex. 5.0 at 42. The People's proposed cost figure is more consistent with the Company's own historical data. See AIC Ex. 22.7 (Rev.), page 19. The People's total recommended expense for Watch and Protect is still above historical figures and will not inhibit the Company from operating the program in a safe and reliable manner. Therefore, the Commission should adopt the People's recommendations on this program.

The People, in their Initial Brief, propose a smaller expense increase to the Watch and Protect program, reducing the Company's forecast by \$250,000. AG IB at 30. The People's proposed level of spending is more consistent with the Company's historical expenses and costs associated with the program than the Company's forecast. AG IB at 30; AG/CUB Ex. 5.1, p. 2, line 6. The Company, however, again claims that the People's unit costs are arbitrary and suggests that certain of the contractor costs incurred in 2013 support its version of the forecasted costs.

As with other Non-Labor Expense adjustments, there is nothing arbitrary about the People's adjustment to the Company's proposed level of spending. The People's adjustment is rooted in both the record evidence and the Company's own data. As Mr. Brosch testified, the AG/CUB Adjustment includes full recovery of the costs for eight full time AIC employees to administer the costs of the program and also includes an additional amount to support this effort with contractor resources in 2014. AG/CUB Ex. 5.0 at 41. The Company's dispute with regard to this program is how to best estimate what AIC may spend on contractor support in 2014. AG/CUB Ex. 5.0 at 41. Mr. Brosch explained that the lower unit cost of \$100 per stand-by transaction he used to arrive at his adjustment,

...is more consistent with the Company's confidential response to data request AG 16.08, part (d), that is included in Ameren Exhibit 22.7 (Rev) at page 19 of 23. That same document indicates an assumed large increase in unit costs per stand-by in part (e) that is not consistent with historical spending and has not been supported or justified by the Company.

AG/CUB Ex. 5.0 at 40. Mr. Brosch further corroborated his expense estimate by noting that, "AIC's response to data request AG 20.21 appears to indicate that actual Watch and Protect stand-by contractor charges totaled \$353,927 in 2012. The amount recommended after the AG/CUB proposed adjustment exceeds this 2012 actual amount by about 13 percent." AG/CUB Ex. 5.0 at 41.

Mr. Brosch also explained the forecasting bias faced by utility management in preparing an expense forecast that will be used to determine rate levels. AG/CUB Ex. 5.0 at 17-18. This bias is confirmed by NRRI study documentation contained in AG/CUB Ex. 5.5. The Commission will have an opportunity to review progress and unit costs actually incurred by AIC for the Watch and Protect Program in future rate cases to verify the Company's commitment to actually undertake this work and spend at targeted levels. Therefore, the People urge the Commission to adopt the People's well-supported adjustment to the Company's forecasted level of spending.

#### Corrosion Control Project

The Company forecasts \$1,000,000 in non-labor expenses for corrosion control project expenses, an amount much higher than the \$296,446 and \$684,086 amounts actually incurred by AIC in 2011 and 2012, respectively. The People, based on the analysis of Mr. Brosch, propose an alternative expense increase to a more reasonable \$700,000 expense level, which is a \$300,000 reduction to the Company's request. AG/CUB Ex. 5.1, p. 2, line 7. AIC witness Mr. Colyer attempts to justify this increase in future spending as a result of a backlog of facilities that require painting, and an expansion of painting in 2014 that was not present in past years. AIC Ex. 22.0(Rev.), at 36. The People, however, based their recommendation on the Company's reasonable and representative historical expenses. AG/CUB Ex. 5.0 at 43. It is inherently unfair to ratepayers to increase forecasted test year painting expenses simply due to a back log of painting that the Company has failed to complete in prior years. *Id.* As Mr. Brosch noted, the appropriate response to a backlog is to increase current spending in 2013 instead of adding additional costs to the test year. AG/CUB Ex. 5.0 at 43.

The People argue that the amount proposed by the Company for group 2 greatly exceeds actual painting for group 2 in all recent years. AG/CUB Ex. 5.11. The historical group 2 expense has not hindered the Company's ability to provide safe and adequate service in the past. *Id.* Therefore, the People recommend allowing an expense level for group 2 of \$400,000 instead of the Company's \$700,000. AIC Ex. 22.0(Rev.) at 36. The People agree with the Company's projected \$300,000 amount for painting of group 1 residential and small commercial meters.

The People's proposal is consistent with historical levels and allows for a reasonable amount of additional spending and therefore will be sufficient for safe and adequate service. The People proposed a reasonable reduction to the Company's projected Corrosion Control Painting expenses – an amount that is still well above the Company's historical expenditures and will allow for expansion of the program. AG IB at 31. Nonetheless, the Company persists in complaining that the People's projected expense level will not allow it to erase a backlog or expand the program. AIC IB at 39. In presenting its argument, the Company admits that it proposes and has assumed more expansive contractor painting work in 2014 to address a backlog of work that should have been done in prior years. AIC IB at 39. The mere existence of this admitted backlog is an indication that the Company views this painting work to be discretionary and readily deferred when other financial priorities take precedence.<sup>15</sup> The People's proposed 2014 test year allowance for this discretionary painting work exceeds the Company's own level of historical actual expense. The Company has done nothing to justify its much larger catch-up allowance of \$1,000,000 for painting and may elect to not spend this amount if other actual 2014 financial priorities again move ahead of painting in management's discretion.

The Company also complains that reducing the forecast will increase the backlog. AIC IB at 39. The People simply note that if AIC believed its own statement that reducing painting in the short term would "result in a cycle where repainting may not occur until corrosion has already begun" then it would not have allowed the admitted backlog to occur for financial reasons. As Mr. Brosch observed,

[o]nly a reasonable and representative level of required painting expense should be included in test year expenses for 2014. If there is a back log of essential painting work at the present time, the Company could (and probably should) elect to accelerate spending in 2013 rather than stacking up additional forecasted costs

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<sup>15</sup> See AG/CUB Ex. 5.1, page 2 at line 7 indicates how this backlog has contributed to historical contract painting work of \$296,446 in 2011 and \$684,086 in 2012.

in the test year. It is not reasonable to increase test year forecasted expenses to make up for deficiencies in prior years.

AG/CUB Ex. 5.0, 43:1079-1084. In summation, the People's revised forecast for painting still greatly exceeds AIC actual historical level of painting in all recent years and does not burden ratepayers with costs for such painting that the Company has admitted is due in part to a back log of facilities needing painting. AG/CUB Ex. 5.0, 44:1096-1102. Therefore, the Commission should adopt the People's recommendation on Corrosion Control Painting.

#### JULIE Requests

The Company requests \$3,100,000 for JULIE facilities locate request expenses. The People propose a modest \$160,000 reduction to this forecasted amount. AG/CUB Exhibit 5.1, p. 2, line 8. The People based this adjustment on acceptance of the Company's own workpaper calculations of test year costs associated with each JULIE locate and the number of locates per year. AG/CUB Exhibit 5.12, page 3. By accepting the Company's own workpaper calculations in its response to data request AG 20.25 supporting a cost of \$2,938,363, Mr. Brosch rounded this value to produce his revised test year estimate of \$2,940,000, which is more historically supported than the Company's forecast amount. AG/CUB Exhibit 5.0 at 46.

In surrebuttal, AIC witness Colyer did not dispute Mr. Brosch's use of the Company's own forecast calculations in its response to AG 20.25 for this forecast element. Instead he seeks to discourage reliance upon the Company's calculations and claims that, "...a change in assumptions could cause actual expenses in 2014 or 2015 to reach current forecasted levels" and, "Based on the minimal difference, an adjustment to slightly lower the expense for this one items is not necessary." The People urge the Commission to reject Mr. Colyer's spurious claims and adopt their recommended adjustment to JULIE Locate expenses.

The People presented a reasonable and modest reduction to the Company's JULIE Locate Requests. The Company continues to dispute this adjustment, claiming that there is a "potential" that contractor costs could escalate in 2014 or 2015. AIC IB at 41. The People urge the Commission to not burden ratepayers with the "potential" that an expense may rise in a given year, particularly where the Company has not justified that potential rise or the additional expenses.

The Company essentially asks the Commission to approve a forecasted amount that even the Company cannot support through its own workpapers. The People's adjustment accepts all of the Company assumptions and input data contained in its workpapers and includes precisely the amount calculated by AIC to develop the test year forecast.<sup>16</sup> The Commission should not approve AIC's clearly overstated estimate that is not supported by the Company's own workpapers just in case the Company failed to fully forecast some other costs that could be higher. The same logic in reverse would justify rounding down other elements of test year expense where the future is uncertain and actual costs could be lower than estimated.

Mr. Brosch explained the forecasting bias faced by utility management in preparing an expense forecast that will be used to determine rate levels (AG/CUB Ex. 5.0 at 17-18; AG/CUB

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<sup>16</sup> As noted by Mr. Brosch, the Company appears to have rounded up from its own calculations and, in the response to AG 20.25(d) indicated that the test year forecast of \$3.1 million "was an estimated cost". AG Ex. 5.0 at 46. The Company's own, more detailed calculations in this response support a test year gas expense amount of \$2.94 million, which is the amount included for the test year after the AG/CUB \$160,000 downward adjustment is applied to the Company's "estimated cost" that is not supported by AIC's workpapers. *Id.*

Ex. 5.5) and this bias is confirmed by NRRI study documentation contained in AG/CUB Ex. 5.5. Given this bias, it is more likely that AIC has overstated its forecasted expenses than understated them, as was the case when actual 2012 expenses came in significantly lower than the Commission approved forecast for the 2012 test year. AG/CUB Ex. 5.0 at 17-18. Given the above, and the argument presented in the People's briefs, the People urge the Commission to adopt their reasonable proposed level of spending for this issue.

#### **E. Rate Case Expense**

The People hereby incorporate the position taken by Commission Staff on rate case expense.

#### **F. Charitable Contributions**

A utility is allowed to recover from ratepayers charitable contributions it made for the public welfare, or for "charitable scientific, religious or educational purposes, provided that such donations are reasonable in amount." 220 ILCS 5/9-227. The Commission must consider the reasonableness of the contributions in their entirety, not necessarily on an individual line-item by line-item basis. *Business and Professional People for the Public Interest v. Illinois Commerce Commission*, 146 Ill. 2d 175, 255 (1991) ("BPI II").

The People argue that the Company has not proven the reasonableness of the over \$518,000 that it is requesting from ratepayers for section 9-227 charitable contributions. The Company's proposed amount represents a whopping 124% increase above the Company's actual 2011 spending and a similarly shocking 40% increase above its actual 2012 contributions. AG IB at 33. The People recommend allowing recovery of 2014 charitable contributions at a level no higher than an inflation-escalated allocation of the Company's actual historical spending on contributions, a reasonable recovery of over \$383,000. The Company has not justified the dramatic increase above actual historical spending and the record evidence does not support its proposed level of recovery. The People, on the other hand, based their recommendation on historical actual spending. The Commission should, therefore, reject the Company's request and adopt the reasonable position supported by evidence presented by AG/CUB witness Mr. Brosch.

The People countered the Company's unjustified increases with a well-reasoned and realistic recommendation that allows for recovery of 2014 charitable contributions at a level no higher than an inflation-escalated amount based on the Company's actual historical spending on contributions. AG IB at 33. The People's proposal, rooted in the Company's own numbers, directly counters the Company's suggestions that its proposal is the "only" one that is representative of its planned contributions for the test year. AIC IB at 44. As demonstrated in greater detail in the People's Initial Brief and in Mr. Brosch's testimony<sup>17</sup>, these are not "cherry-picked" numbers as the Company protests. AIC IB at 44. The People started by incorporating the Company's own expenditures from 2011 and 2012 and then adjusted for inflation. AG IB at 35; AG/CUB Ex. 1.0 at 33. It is confounding that the Company claims that the People's numbers are not representative of its planned spending when Mr. Brosch proposed the adjustments based on the numbers that the Company once viewed as reasonable expenditures.

The Company further criticizes the People's proposed level of funding noting that "[t]his is a rate proceeding to recover AIC's future forecasted costs, not its prior historical costs, adjusted for inflation." AIC IB at 50. While the Company may be correct about the nature of the proceeding, the fact remains that Company has done nothing to justify its proposed level of

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<sup>17</sup> AG IB at 35; AG/CUB Ex. 1.0 at 33.



spending. The Company simply chooses not to address this shortfall. See AIC IB at 49-50. In fact, the Company attempts to place the burden of proof on the People for defending the use of the Company's own historical data. AIC IB at 50. The People not only do not have the burden on this issue, they have proposed rate recovery for charitable contributions at a level that represents very generous full recovery of *what the Company historically decided* was an adequate level of charitable contributions for 2012. AG IB at 34. The amounts relied on by AG witness Mr. Brosch are the amounts actually spent by management in its discretion in 2012. AG IB at 34; AG/CUB Ex. 5.0 at 49. As demonstrated in greater detail in the People's Initial Brief, the Company proposes an increase of 124 percent above actual 2011 spending and an increase of 40 percent above actual 2012 contributions. AG IB at 33-34; AG/CUB Ex. 1.0 at 32. As the record clearly demonstrates, the Company has made no showing that its actual contributions that were deemed adequate by management in recent years cannot be continued. Therefore, the People urge the Commission to adopt its proposed level of funding for charitable contributions.

It is important to remember that spending for charitable contributions is discretionary and that it also places a greater burden on the rates to be paid by the ratepayers. AG/CUB Ex. 5.0 at 50. AIC witness Mr. Kennedy fails to explain in his testimony *why* the aggregate level of donations that his company actually made in the past – and were apparently deemed reasonable in the past – are somehow not sufficient for 2014. See *Id.* at 33-35. According to AIC witness Mr. Kennedy, the Company's proposed level of test year contributions, "...represent the aggregate amount of donations that AIC has budgeted for the relevant time periods" and "AIC does not budget recipient-by-recipient each year for all the contributions it will ultimately make in a given year." AIC Ex. 24.0R at 33-34.

This leaves Staff and intervenors in a quandary. On one hand, the Company is saying that past historical amounts spent are not relevant. But, on the other hand, the Company is unable or unwilling to produce specific details about planned much higher future spending. Despite requests for specificity,<sup>18</sup> the Company routinely failed to identify individual recipients or itemize amounts of individual contributions that it proposes to make in 2014, rendering it difficult to obtain a clear picture on the reasonableness of the entire amount that the Company is requesting. Although the Company provides an itemization of actual historical charitable contributions by payee<sup>19</sup>, it provides no itemization for either the 2013 or 2014 forecast years. Failing to use the Company's actual 2012 contribution level – particularly in light of the inability of the Company to explain *why* they are reasonable - raises serious concerns about overstating test-year expenditure budgets and unnecessarily increasing the burden on ratepayers. AG/CUB Ex. 5.0 at 51.

The People, to relieve this quandary, have presented ample support for using the recent actual or average historical amount of contributions as a baseline for recovery. As Mr. Brosch testified, "There is no reason to "defend" AIC from its own actions." AG/CUB Ex. 5.0 at 49. The People presented a generous allowance for the Company to fully recover the amounts that management – in its discretion – decided were adequate levels of charitable contributions in 2012 and representative of the amounts actually spent in that year. *Id.* By allowing the Company to recover its recent actual level of spending, as the People's adjustment does, including an adjustment for expected inflation, these concerns are alleviated.

Specifically, the People's adjustment is broken down as follows. In 2011, the Company spent approximately \$230,000 on charitable contributions and in 2012 spent about \$369,000. In

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<sup>18</sup> See AG/CUB Ex. 1.0 at 32.

<sup>19</sup> AIC Schedule C-7

this docket, that Company's proposed forecast number somehow jumps to over \$518,500. AG/CUB Ex. 1.0 at 33. The People, based on an analysis conducted by AG/CUB witness Michael Brosch, propose setting the level of allowable charitable contributions for 2014 no higher than an inflation-escalated allocation of its historical actual contributions. *Id.* Mr. Brosch then allowed for an inflationary increase of 2 percent in 2013 and another 2 percent in 2014. This calculation yields an allowance of \$384,000. AG Ex. 1.3 at p. 4.

The Company, through the course of this docket, continued to discount the importance of AIC's historical contribution levels. See, *e.g.*, AIC Ex. 21.0R at 34. This is little more than a ruse, however, to distract the Commission from the record evidence, which demonstrates that the Company has not justified the large increases in charitable contributions over historical actual spending levels that AIC seeks in the forecasted 2014 test year. Mr. Kennedy vaguely refers to "...guidelines that identified the criteria AIC uses when approving and funding contributions" AIC Ex. 21.0R at 4. However, the existence or non-existence of certain corporate guidelines does nothing to address the adequacy of recent actual contribution levels or the alleged need for much higher future spending. As Mr. Brosch noted, if Ameren consistently applies such guidelines, it does nothing more than provide a conclusion that the Company's recent actual contributions made in accordance with the Company's own guidelines were deemed adequate and reasonable by none other than Ameren management. AG/CUB Ex. 5.0 at 50.

The Company also argues that their proposed increase to charitable contribution expense is reasonable when compared to the amount AIC is currently recovering in gas delivery rates, based upon prior rate case forecasts. AIC Ex. 21.0R at 5. This is an argument that borders on nonsensical, particularly where the Company's inability or unwillingness to provide specific data created a record comprised entirely of AIC representations and estimates. See AG/CUB Ex. 5.0 at 50. That Ameren has convinced the Commission to rely upon its overstated contributions forecast in prior rate cases, resulting in over-recovery of lower actual contribution spending in subsequent years, is no basis to repeat this mistake now. Regardless of past forecasting errors, the proposed forecast for contributions presented by the Company is excessive when compared to actual historical contributions.

The Company fills the record with potentially misleading evidence that focuses on the excessive forecasted contributions allowed in the prior rate case, rather than actual spending. See AIC Ex. 21.0R at 5. The People, to the contrary, provided evidence through Mr. Brosch's direct testimony, that explained that the Company's 2014 forecasted level of charitable contributions represent an increase of 124 percent above actual 2011 contributions and an increase of 40 percent above actual 2012 contributions. AG/CUB Ex. 1.0 at 33. The Commission should not ignore AIC's lower recent actual contribution levels and should not simply allow recovery of AIC's projected 2014 contribution budget consistent with the expenses incurred by AIC in more distant history prior to 2010, as suggested by Mr. Kennedy. AIC Ex. 21.0R at 35.

The Company also seems to argue that it wishes to make contributions in excess of the contributions made in 2010 and 2011. AIC Ex. 21.0R at 13. The People simply note that the charitable contribution funding allowed in their current proposal is higher than the Company's contributions in 2010 or 2011. AIC witness Kennedy seems to suggest that the low levels of spending in more recent years were anomalies that could be explained by "financial reasons." AIC Ex. 21.0R at 13. Anecdotally, this statement does little more than demonstrate that these costs are entirely discretionary and subject to future reductions. The People remind the Company that it is, of course, free to use shareholder funds to make charitable contributions

above the level included in rates. However, the People urge the Commission to not burden ratepayers with an unjustified and unnecessarily high level of contributions.

It should also be noted that Staff proposed a recommended allowance for charitable contributions that is even lower than that proposed by the People. Staff Ex. 1.0 at 5. Although the People certainly do not object to the Commission approving a lower level of recovery for charitable contributions, the position of Staff is additional evidence of the reasonableness of the People's proposal.

Finally, the People's reasonable allowance for charitable contributions comports with the Commission's past practices on proposed recoverable amounts, where the Commission accepted Staff's proposal to limit recovery of contributions to the Company's budgeted amount for 2011 plus a 2% increase for inflation. Docket 11-0282, Final Order (Jan. 10, 2012) at 24. This is yet another reason for the Commission to not burden ratepayers with excessive estimated amounts of discretionary and difficult to forecast expenditures and adopt the People's conservatively estimated and reasonable levels of charitable contributions that are also in line with the requirements of Section 9-227 of the Public Utilities Act. 220 ILCS 5/9-227.

### **G. Forecasted Advertising Expenses**

The People note that the Company proposes to recover a total of \$1,757,000 for forecasted advertising expenses – an amount that is *68% higher* than the Company's four-year average level of actual spending. ICC Staff Ex. 4.0 at 6. This AIC-proposed amount is broken down between Account 909 Informational and Instructional Advertising of \$1,550,000 and \$207,000 of Account 930.1 General Advertising expense. AIC Schedule C-8. The People propose a reasonable adjustment to only the Account 909 forecasted amount that would disallow approximately 27 percent of AIC's proposed 2014 test year forecasted Informational advertising expenses. AG/CUB Ex. 1.3 at p. 6. The People argue that their adjustment is necessary because AIC has failed to support any need for more expansive advertising efforts in 2014, the Company's 2014 forecasted advertising expense amount is unsupported by the record and this amount is excessive – particularly when compared to the Company's recent actual expense levels. Therefore, the People urge the Commission to adopt its reasonable adjustment and avoid placing an unreasonable burden on the ratepayers.

The People presented an adjustment for forecasted advertising expenses following the same analysis that the Commission applied in the most recent order. AG IB at 39; ICC Docket No. 12-0293, Final Order (December 5, 2012) at 63, 65, 69. The Company, however, protests that the People's projected level of spending does not reflect the Company's anticipated level of spending. AIC IB at 51. Contrary to the Company's protests, the People's proposed level of spending is more reasonable and realistically rooted than the Company's projections. The People estimated the appropriate adjustment to forecasted test year expenses based upon the proportion of expenses recently disallowed by the Commission in the 2011 formula rate year when actual advertising costs and content were available for review. AG IB at 39-40. The projected spending level presented by the adopted the Commission's past analysis as the best available proxy in the absence of details from the Company as to their planned advertising activities. AG IB at 40; AG/CUB Ex. 1.3 at page 6; AG/CUB Ex. 1.0 at 36.

The Company suggests, however, that it provided enough information about its planned spending and that the People's proposal fails to give weight to those activities. The People's approach is valid because it follows the same analysis that the Commission performed in Docket

No. 12-0293, which reviewed actual detailed advertising activities and costs from 2011.<sup>20</sup> The People also demonstrated in their Initial Brief that the Company failed to provide itemization. AG IB at 40. The Company nonetheless claims that it provided a bulleted list in AIC witness Mr. Kennedy's rebuttal that should serve as a sufficient proxy. AIC IB at 54-55. The People, on the other hand, note that a bullet listing of advertising that the Company "plans to execute in 2014" as noted in Mr. Kennedy's rebuttal testimony is not an itemization of actual advertising copy and costs sufficient for detailed review and analysis. AIC IB at 54-55; AIC Ex. 21.0R at 35-36. However, if the Commission were to rely upon Mr. Kennedy's bullet-points of planned 2014 advertising activities, it would find that the Company has justified no more than \$806,000 of gas Information Advertising.<sup>21</sup> This results in a requested amount less than the People's recommended level of spending for advertising expense, thus, further demonstrating the reasonableness of the People's adjustment. AG IB at 40; AG/CUB Ex. 1.3 at page 6. Therefore, the Commission should adopt the People's modest adjustment to the Company's proposed forecasted advertising expenses.

The People's adjustment focuses on the Company's forecasted spending on Informational and Instructional Advertising in FERC Account 909. AG/CUB Exhibit 1.3. The Company has forecasted and requested recovery of \$1,550,000 of forecasted spending in this account. AIC Schedule C-8. Mr. Brosch noted that Ameren has provided no itemization for its 2014 forecast detailing each discrete advertising campaign or message that will be funded or listing the specific vendor charges or credit card costs that will be incurred next year. For this reason, Mr. Brosch applied the results of the Commission's most recent review<sup>22</sup> of AIC advertising when conducting his analysis and preparing the People's adjustment. AG/CUB Ex. 5.0 at 58. In ICC Docket 12-0293, the Commission reviewed comparable actual expenditures of AIC and the Company's advertising expenditures in calendar year 2011 became the subject of detailed scrutiny to determine appropriate rate recovery. ICC Docket No. 12-0293, Final Order (December 5, 2012) at 63, 65, 69. In the Final Order, the Commission disallowed a total of \$683,000 of AIC's electric jurisdictional informational advertising expense in Account 909.<sup>23</sup> Mr. Brosch's analysis of that docket revealed that the Commission's ordered adjustment represents 27 percent of the Company's total proposed Account 909 expense.<sup>24</sup> This represents the same proportional adjustment that the People now propose in the absence of any more detailed forecast breakdown of the AIC-proposed amounts.

The People note that the Company, however, disputes using the Commission's rationale in the Docket No. 12-0293 rate order as a "proxy" for forecasted gas advertising expenses. See AIC Ex. 21.0R at 39. The People, however, deem it reasonable to estimate the appropriate adjustment to forecasted test year expenses based upon the proportion of expenses recently disallowed by the Commission in the 2011 formula rate year when actual advertising costs and content were available for review. It is, in fact, the only realistic proxy that is available in this docket, particularly where the Company provided no detailed advertising programs or spending breakdown for 2014 to support its forecasted gas advertising expenses. AG/CUB Ex. 5.0 at 58. Docket No. 12-0293 represents the most detailed and most recent Commission order providing

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<sup>20</sup> AIC witness Kennedy indicated 2011 expenses were representative because 2011 represents "the most recent calendar year for which AIC has a full year of actual data at the time of this filing." AIC Ex. 6.0 at 18..

<sup>21</sup> Sum of \$100,000, \$75,000, \$335,000, \$100,000, \$73,000, \$50,000 and \$73,000 listed by Mr. Kennedy. AIC Ex. 21.09R at 27

<sup>22</sup> ICC Docket No. 12-0293

<sup>23</sup> See Docket No. 12-0293 Final Order, Appendix page 2, column (g).

<sup>24</sup> Docket No. 12-0293, AIC Schedule C-8, line 1.

an analysis of detailed actual AIC advertising charges within AIC's Account 909. Therefore, the People – as well as other parties to this docket – are left with little guidance to determine what advertising may actually be done in 2014 outside of the Commission's past analysis and the recent actual spending programs and advertising messages. The People availed themselves of the best available resource and calculated a reasonable adjustment based on it.

It should be noted that Staff's adjustment (ICC Staff Exhibit 4.0, Schedule 4.02) would reduce the Company's proposed forecasted test year advertising expense by \$998,000 – a greater reduction than the \$418,500 reduction that the People proposed. AG/CUB Exhibit 5.0 at page 57. Although the People do not object to the Commission authorizing Staff's proposed lower level of recovery, the People's proposal provides a reasonable level of recovery.

The Company believes that its proposed expenses are supported and appropriate. AIC Ex. 21.0R at 39. The Company also suggests that the portfolio it provided of 2011 actual advertising messages and programs indicate how the forecasted budget for 2014 advertising may be deployed.<sup>25</sup> As is the case with its proposed level of recovery for corporate sponsorships and charitable contributions, the Company failed to provide any itemization for its 2014 advertising forecast detailing each discrete advertising campaign or message to be funded, so the best available proxy for the advertising that may eventually be done is the Company's recent actual spending programs and advertising messages that were addressed by the Commission in the Docket No. 12-0293 Final Order. AG/CUB Ex. 1.0 at 36-37. It is for this very reason that the People adopted the rationale presented in the Commission's prior electric rate order and applied the overall percentage disallowance found reasonable by the Commission. *Id.* The People urge the Commission to adopt the reasonable adjustment proposed by Mr. Brosch in this docket.

## **H. Sponsorship Expense**

The People argue that the Company's request to recover a forecasted \$133,000 for 2014 sponsorship expenses is not justified by the record. The People, on the other hand, propose to allow recovery of just under \$30,000<sup>26</sup> – a reasonable level determined by AG/CUB witness Mr. Brosch, who rooted his analysis on the same evaluation performed by the Commission in Docket No. 12-0293. The Final Order in AIC's 2012 electric formula rate case represents the most recently available final analysis and determination of the portion of AIC's sponsorship costs that are likely to be properly recoverable from ratepayers. See ICC Docket 12-0293, Final Order (December 5, 2012) at 74. In consideration of the following, the People urge the Commission to adopt the People's reasonable adjustment.

The People argue that they presented a well-reasoned recovery for forecasted sponsorship expenses based on an adjustment prepared by AG/CUB witness Mr. Brosch, who based his analysis on the same evaluation performed by the Commission in Docket No. 12-0293. AG IB at 41. The Company, however, attacks Mr. Brosch's reliance upon a Commission-sanctioned approach by complaining that the analysis ignores recent data, does not take into account removal of tangible benefits, and did not address items removed in 12-0293 that were lacking evidentiary support.

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<sup>25</sup> Mr. Kennedy states that, "In connection with this filing, AIC will be sending Staff copies of advertisements and scripts that were produced and published in 2011, the most recent calendar year for which AIC had a full year of actual data at the time of this filing" and that, "[i]ncluded with copies of the 2011 advertisements and scripts is a workpaper that lists the production costs and publication costs for the ads and scripts produced and published in 2011." AIC Ex. 6.0 at 18.

<sup>26</sup> AG/CUB Ex. 1.3 at 5, line 8.

First and foremost, the Company's complaints ignore the People's primary position that the Company failed to justify the level of proposed expenses and failed to include any itemization within its 2014 test year sponsorship forecast that will be funded next year. See AG IB at 41. In the absence of any detailed itemization of sponsorship costs that may be incurred by AIC in the forecasted test year, the best available sponsorship information is the data that was most recently reviewed and addressed by the Commission in the Final Order addressing sponsorship costs in Docket No. 12-0293. AG IB at 41-42; AG/CUB Ex. 5.0 at 55. That AIC prefers to rely upon, analyze, and self-disallow from its actual sponsorships in 2012 is not helpful, because these costs have not been ruled upon by the commission and remain disputed in Docket No. 13-0301. AG/CUB Ex. 5.0 at 54-55. AIC has not demonstrated that the sponsorships it may ultimately choose to fund in 2014 will be any more recoverable than the organizations funded by AIC in 2011 that were allowable after both the Company's self-disallowances and upon further analysis by the Commission in Docket No. 12-0293. AG/CUB Ex. 5.1, page 5.

As to the Company's specific complaints against Mr. Brosch's analysis, the People note that the 2014 test year is a forecast. The People argue that, unless AIC prepares its forecast in an itemized fashion, which it did not, it is impossible to analyze any detailed spending for the forecast. As the People have noted, there is no "documented support" for the forecast. Any historical period that is chosen and then analyzed can serve only as a proxy for what might actually be spent in 2014. Because of this, Mr. Brosch chose to use the best proxy: the last available Commission analysis and conclusion regarding how much sponsorship spending should be charged to ratepayers. AG Ex. 5.0 at 55. Next, as to the Company's lengthy argument that the People's analysis does not account for the Commission's rejection of the recommended disallowance of certain charitable expenses in the People's Gas/North Shore rate case, the People respond that this situation has nothing to do with the types of organizations or events that AIC elects to sponsor. AG IB at 58. Regarding the analysis that AIC has conducted and the levels of "self-disallowance" (AIC IB at 60), the People simply note that the Company's analysis nonetheless supported a higher level of sponsorship recovery in Docket 12-0293 than was ultimately approved. This is precisely why the People used the Commission analysis from Docket 12-0293 as the best proxy. Given the above, as well as the arguments presented in their Initial Brief, the People urge the Commission to adopt their proposed level of funding for sponsorship expense.

It remains troubling to the People that, just as the case with charitable contributions and advertising expenses, AIC provided no specific data upon which a detailed analysis of their forecasted 2014 test year sponsorship costs could be performed. The Company failed to include any itemization within its forecasted test year sponsorships forecast that would be funded next year. AG/CUB Ex. 1.0 at 34-35. This lack of detail precludes any analysis that could more precisely determine what overall level of sponsorship expense is reasonable and what portion of such expenses should be recoverable from ratepayers. AG/CUB Ex. 1.0 at 34-35. The Company's failure to provide necessary detail such as this leads to a record replete of any justification for their forecast.

The People further argue that the Company has failed to provide any itemized breakdown of its requested amount by event or payee; leaving the People in a position where they were unable to review the reasonableness of the requested costs for recovery from ratepayers. This form of detailed information was requested by the People in discovery,<sup>27</sup> and the Company

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<sup>27</sup> See AG/CUB Ex. 1.0 at 35; AG/CUB Ex. 1.6.

responded by referencing the detailed breakdown of actual 2011 sponsorships that was submitted by AIC in AIC's electric formula rate case<sup>28</sup> stating that, "AIC expects to support similar types of events in 2014."<sup>29</sup> In the absence of any itemization of events AIC may sponsor in 2014, the Company appears content to rely upon the details of its actual event sponsorship in the most recently litigated rate proceeding, which is the basis for the Peoples' proposed rate adjustment.

The Company relies upon the itemization of sponsorship costs that it presented in Docket No. 12-0293 to explain and defend its forecasted 2014 sponsorship spending. This propounded itemization, however, cannot withstand scrutiny. The Commission, in Docket No. 12-0293, disallowed most of the event sponsorship costs incurred by the Company in 2011, based upon close examination by the Commission.<sup>30</sup>

AIC responds to the People's proposed adjustment by raising an argument based on Mr. Brosch's methodology. The Company argues that Mr. Brosch inappropriately relied upon a percentage disallowance based upon the Commission's review in Docket No. 12-0293 that did not include 2012 sponsorship data<sup>31</sup>, that the Commission did not have access to the Company's sponsorship guidelines issued after the Commission's order and that certain items it presented in the previous rate case were without "discernable support."<sup>32</sup> However, it was these types of responses by Ameren that led Mr. Brosch to base his recommendation on the Commission's actions in Docket 12-0293, and devise an adjustment that builds in a 22.4 percent recoverability rate to the Company's forecasted sponsorship expenses, similar to the Commission's Order in 12-0293. AG/CUB Exhibit 1.3 at page 5; ICC Docket No. 12-0293, Final Order at 74, 76.

The People contend that the absence of detailed itemization of sponsorship costs means that the best available information is the event sponsorship data that was most recently reviewed and addressed by the Commission in Docket No. 12-0293 – which is the very rationale that Mr. Brosch applied when preparing his proposed adjustment. Although the Company touts its "extensive analysis" of sponsorship costs following the Commission's order in 12-0293, it is telling that this analysis has not been accepted by Commission Staff in the currently pending electric formula rate case (ICC Docket No. 13-0301). In 13-0301, Staff witness Mr. Knepler recommends disallowance of about half of the sponsorship costs that AIC determined to be allowable based upon its presented analysis presented. Docket No. 13-0301, ICC Staff Exhibit 10.0.<sup>33</sup> Thus, it would appear that, despite their bold proclamations to the contrary, the

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<sup>28</sup> The Company referred directly to ICC Docket No. 12-0293, AIC Exhibit 24.2.

<sup>29</sup> AIC Ex. 21.0R at 38.

<sup>30</sup> The Final Order in Docket No. 12-0293 noted at page 74 that a total electric jurisdictional amount of corporate sponsorships was \$273,750 and that AIC applied a voluntary disallowance of \$118,342 to this amount, leaving \$155,408 of electric jurisdictional spending in dispute. ICC Docket No. 12-0293, Final Order at 74. After listing and totaling the "Excluded Corporate Sponsorship Costs" from two different exhibits, the Final Order concludes that \$94,056 of the disputed jurisdictional amounts should also be disallowed. The net recoverable amount of \$61,352, after the voluntary and Commission-ordered disallowances, represents about 23 percent of the total incurred electric-jurisdictional costs of corporate sponsorships that were determined to be recoverable from ratepayers.

<sup>31</sup> Ameren Exhibit 21.0, 38:797-812.

<sup>32</sup> Ameren Exhibit 21.0, 38:797-812.

<sup>33</sup> ICC Docket 13-0301, Staff Exhibit 10.0, Schedule 10.01, Supp recommends rate recovery of only \$97,966 in sponsorship costs treated as advertising, while Ameren's analysis would treat \$192,023 of such sponsorship costs as allowable. Similarly, in Staff Exhibit 10.0, Schedule 10.02, Supp recommends rate recovery of only \$6,160 in sponsorship costs treated as community outreach, while Ameren's analysis would treat \$13,040 of such sponsorship costs as allowable. The People ask the ALJ and the Commission to take administrative notice of this evidence. The record in Docket 13-0301 was marked "Heard and Taken" on September 19, 2013.

Company's sponsorship costs incurred in 2012 remain under dispute with regard to rate recoverability.

Given the Company's inability to justify its proposed level of expenses or the rate recoverability of specific types of spending contemplated therein, the Commission should disregard their forecast and adopt the revised level of forecasted recoverable sponsorship expenses presented by the People,<sup>34</sup> which amount is based upon the Commission's own relevant analysis recently adopted in Docket No. 12-0293, the most recently available final analysis and determination of the portion of such costs that are likely to be properly recoverable from ratepayers.

**I. Credit Card Expenses**

**J. Non-Residential Revenues Adjustment**

**K. Software Rental Revenues**

The People note that Company witness Colyer describes, in his direct testimony, two new software development projects that the Company expects to complete by December 2014, called Project J01HP, Enterprise Asset Management Implementation ("EAM") and Project J01HZ, Mobile Work Management ("MWM"). AIC Ex. 7.0, 29:613-30:652. The EAM and MWM projects are expected to be owned and maintained by AIC, while AIC's corporate affiliate Ameren Missouri will also use the software and pay a rental fee, beginning in January 2015, to AIC for use thereof. AIC Ex. 17.0, page 24.

AG/CUB witness Michael L. Brosch argued in direct testimony that the timing of expenditure during 2014 on the software projects is mismatched with the timing of rental revenues beginning in 2015. AG/CUB Ex. 1.0, 31:745-748. Thus, to recognize the support due to come from Ameren Missouri, Mr. Brosch initially proposed to include the annual software rental revenues anticipated to be received from Ameren Missouri for its use of the EAM/MWM systems as a reduction to the AIC revenue requirement. AG/CUB Ex. 1.3, page 3. Staff witness Bonnie Pearce proposed a similar adjustment to account for rental revenues expected to be received from Ameren Missouri starting in 2015. Staff Ex. 5.0, page 4.

Company witness Ronald D. Stafford argued in rebuttal that AIC will incur additional costs for EAM and MWM during 2015, and it is inappropriate to allocate 2015 revenues related to the software projects to the 2014 test year. AIC Ex. 17.0 (Rev.), 25:530-534. Staff witness Bonita A. Pearce acknowledges this argument and suggests removing from test-year revenue requirement the test-year amortization expense related to the two software projects, in the amount of \$358,000<sup>35</sup>, instead of the annual average revenue to be received in 2015 and beyond. Staff Ex. 13.0, 6:120-129; Schedule 13.01. According to the surrebuttal testimony of Company witness Stafford, AIC has agreed to accept Ms. Pearce's adjustment of \$358,000. AIC Ex. 31.0, 13:257-265.

In his rebuttal, Mr. Brosch proposed a more appropriate accounting for the test year EAM/MWM project costs AIC seeks to recover. He proposes to offset 13.53 percent of such costs, the share to be supported by Ameren Missouri<sup>36</sup>, of AIC's \$3.338 million<sup>37</sup> of test-year recoverable expenses related to the projects. AG/CUB Ex. 5.0, 48:1182:1188. Mr. Brosch's calculation indicates that \$451,631 should be disallowed from test-year revenue requirements for

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<sup>34</sup> AG/CUB Exhibit 1.3 at 5.

<sup>35</sup> See AIC Ex. 17.0 (Rev.), 25:539-541.

<sup>36</sup> See AIC's response to DR AG 18.09(c), found at AG/CUB Ex. 5.13.

<sup>37</sup> See AIC Ex. 17.8 (Rev).



the software projects, based upon AIC's own calculation of such costs in Ameren Ex. 17.8, as outlined at AG/CUB Ex. 5.1, page 3, including the allocation among AIC's three rate zones. Alternatively, Mr. Brosch recommends that if the new software systems are not expected to be in service by the end of 2014, expenses should be adjusted downward to eliminate the capitalized cost of the systems and related depreciation and amortization expenses, along with the projected operations and maintenance expense. AG/CUB Ex. 1.0, 31:758-32:762.

Mr. Stafford argues in surrebuttal that, although he "agree[s] with some aspects of Mr. Brosch's adjustment," Brosch's adjustment is inappropriate because "less than 50% of the system costs are included in revenue requirement in this proceeding." *Id.* at 14:276-278. However, Mr. Stafford's criticism is inapposite, because Mr. Brosch is not proposing to remove 13.53% of 100% of actual EAM/MWM system costs<sup>38</sup>; rather, Mr. Brosch is proposing to remove 13.53% of the EAM/MWM system costs that AIC has actually included in test-year revenue requirement, as described above. Company witness Stafford confirmed the accuracy of the \$3.338 million and 13.53 percent figures that are used by Mr. Brosch in calculating the AG/CUB adjustment during cross-examination. Tr. at 328:21-330:10.

In conclusion, Mr. Brosch explained in rebuttal testimony that EAM/MWM costs to be supported by Illinois ratepayers should match the benefits that Ameren Illinois will receive from the software projects and exclude the benefits intended to flow to Ameren Missouri. AG/CUB Ex. 5.0, 48:1193-1196. Mr. Stafford proposes to remove from test-year expenses only the Missouri share of EAM/MWM amortization expense and does not address the full 2014 test-year revenue requirement that should be allocated toward the support from Ameren Missouri. Ms. Pearce stated in her rebuttal testimony that it was appropriate to "remove an amount from the revenue requirement representing costs for EAMS and MWMS that will not provide service to Illinois jurisdictional ratepayers" (Staff Ex. 13.0, 6:127-129), echoing Mr. Brosch's justification for her adjustment, but she did not explain why only test-year amortization expense is the appropriate measure of this goal, rather than the calculation espoused by Mr. Brosch based on overall EAM/MWM revenue requirements. The People's proposed adjustment of \$451,631, with allocation among rate zones as described on AG/CUB Ex. 5.1, page 3, should be adopted by the Commission.

## **L. Recommended Operating Income / Revenue Requirement**

The People argue in favor of AG/CUB witness David J. Effron's proposed revisions to forecasted test-year operating revenues presented in AG/CUB Ex. 6.1. Mr. Effron's adjustment, comparing actual base-rate revenues for the past twelve months against the Company's forecasted revenues, are as follows:

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<sup>38</sup> Mr. Brosch noted in his rebuttal testimony that because the EAM and MWM projects will not be included in rate base until the end of 2014, only half of the Company's investment in those software projects would be included in 2014 rate base. AG/CUB Ex. 5.0, 47:1171-1173.

	<u>Industrial</u>	<u>Transport</u>	<u>Total</u>
Base Rate Revenues 12 Months Ended 6/30/13	\$2,215	\$28,441	\$ 30,656
Test Year Base Rate Revenues Forecasted by AIC	<u>\$2,573</u>	<u>\$23,991</u>	<u>26,564</u>
Adjustment to Test Year Revenues	\$(358)	\$4,450	\$ 4,092
Allocation to Rate Zone:			
RZ I	(94)	885	791
RZ II	(149)	1,425	1,276
RZ III	(115)	2,140	2,025

#### Sources for Mr. Effron's Analysis

The Company's response to data request AG 19.11 (contained at AG/CUB Ex. 6.2, page 16) shows that actual Industrial and Transportation base rate revenues for the twelve months ended June 30, 2013 were \$2,215,483 and \$28,440,599, respectively. The attachment to the Company's revised response to data request AG 11.01 (contained at AG/CUB Ex. 5.2, page 13) shows that forecasted test-year Industrial and Transportation base rate revenues will be \$2,573,580 and \$24,525,576, respectively; as recommended by Company witness Karen R. Althoff (AIC Ex. 24.0, 10:205-209, 11:231-239), the forecasted Transportation figure is reduced by approximately \$0.535 million, the forecast of GDS-7 (Contract Service) revenues shown on Ameren Ex. 15.4, to reach the \$23.991 million shown in Mr. Effron's AG/CUB Ex. 6.1.

#### Dispute with Company witness Althoff

Company witness Althoff argues in her rebuttal testimony that Mr. Effron has overlooked the Commercial and Public Authorities customer classes, thus missing a "significant portion of the big picture." AIC Ex. 24.0, 6:125-7:135. Althoff also argues in her surrebuttal testimony that Mr. Effron should have considered the trend of customers switching from Rider T (Transportation) to Rider S (System gas), thus ignoring movement of revenues from Transportation to Commercial. AIC Ex. 38.0, 6:124-7:136. However, Mr. Effron states in his rebuttal testimony that he did examine Commercial customer revenues and found that the forecasted test-year sales of approximately 200.3 million therms (AG/CUB Ex. 6.2, page 6, AIC response to DR AG 2.18 Attach) were higher than the weather-normalized 2012 level of Commercial sales, 187.6 million therms (Id., page 4, AIC response to DR AG 2.16 Attach) but slightly below the weather-normalized 2010 and 2011 levels of Commercial sales, 201.7 million and 204.2 million therms, respectively (Id., page 6, AIC response to DR AG 2.18 Attach). Mr. Effron thus found the forecasted test-year level of Commercial sales to be reasonable. AG/CUB Ex. 6.0, 5:12-23. Similarly, and using the same sources, Mr. Effron examined Public Authorities customer revenues and found that the forecasted test-year sales of approximately 4.2 million therms were higher than the weather-normalized 2012 level of Public Authorities sales, 3.1 million therms, but slightly below the weather-normalized 2010 and 2011 levels of Public Authorities sales, 4.5 million and 4.3 million therms, respectively. AG/CUB Ex. 6.0, 6:1-5.

Thus, Mr. Effron concluded that no adjustment to Commercial or Public Authorities forecasted test-year sales was necessary.

Ms. Althoff suggested in rebuttal testimony that Mr. Effron improperly ignored that Transportation service includes Commercial, Public Authority, and Industrial customers. AIC Ex. 24.0, 12:250-256. However, the Company's revised response to data request AG 2.21 Attach shows that Transport sales are only Industrial in nature; no Commercial or Public Authority sales are included in Transport sales. AG/CUB Ex. 6.2, page 8; AG/CUB Cross Exhibit 4, page 13. The Company was also unable to identify any Commercial transportation volumes or base-rate revenues for the most recent twelve-month period available or for the test year. AG/CUB Ex. 6.2, page 19 (AIC response to DR AG 19.21); page 20 (AIC response to DR AG 19.22).

#### Suggestions Adopted by Mr. Effron

Company witness Althoff also raises two objections in her rebuttal testimony to Mr. Effron's analysis that have since been rendered moot by his modifications to his analysis in his own rebuttal. First, she complains that Mr. Effron failed to consider twelve months' worth of the effect of Rider TBS, which was implemented on May 1, 2012 and made effective on June 2012 bills. AIC Ex. 24.0, 12:259-263. However, Mr. Effron considered data from July 1, 2012 until June 30, 2013 in his rebuttal analysis. Second, Ms. Althoff argues that Mr. Effron improperly calculated an average rate, across different rate classes, to estimate Industrial base rate revenues. AIC Ex. 24.0, 14:298-308. However, Mr. Effron's rebuttal analysis relies on actual industrial base rate revenues for the twelve months ended June 30, 2013, as discussed above.

In conclusion, the People recommend adopting the revisions to operating revenues shown above and in AG/CUB Ex. 6.1.

## **IV. COST OF CAPITAL AND RATE OF RETURN**

### **A. Resolved Issues**

### **B. Contested Issues**

### **C. Recommended Overall Rate of Return**

The People herein incorporate the rate of return adopted by Commission Staff.

## **V. COST OF SERVICE**

### **A. Cost of Service Study**

#### **1. T&D Main Allocation Methodology**

The People note that IIEC witness Mr. Collins proposes a radical change in the methodology for allocating transmission and distribution ("T&D") mains in the cost of service study (COSS), in which IIEC seeks to allocate 40% of the cost of T&D mains on a per-customer basis. IIEC Ex. 2.0 at 9. The People urge the Commission to reject this proposal because it would do no more than shift millions of dollars in costs from large users (particularly the client-members of IIEC) to residential customers. In particular, the residential (GDS-1) customer class would have more than \$2.8 million in costs shifted to it in Rate Zone I, \$4.5 million in Rate Zone II, and \$7.1 million in Rate Zone III. IIEC Exhibit 2.1. The Commission should also reject this proposal because there is neither factual support nor precedent for IIEC's adjustment.

The People further note that IIEC's proposal presents one of those rare moments where the planets align and Commission Staff, the People and the Company agree on an issue that still remains outstanding. Both the Company and the People agree that IIEC provided no factual

support for their proposed adjustment. AIC witness Ms. Althoff addresses the major flaws in Mr. Collins's adjustment. See AIC Ex. 24.0 at 16-22. In addition, the People note that there is absolutely no factual support for the 40% figure that Mr. Collins used. According to AG/CUB witness Mr. Rubin, after extensive analysis: "It appears that he picked this number based on what some other utility may have done somewhere else. He provides no support or documentation for that figure and he readily acknowledges that he did not perform any analysis on Ameren data." AG/CUB Ex. 7.0 at 2. Staff witness Boggs similarly recommends rejecting IIEC's proposal. Staff Ex. 15.0 at 20.

The People further argue that there is no precedent in Illinois for allocating T&D mains on a per-customer basis. The record includes testimony from AG/CUB witness Mr. Rubin, who has participated in a number of rate cases for Illinois utilities over the past ten years. AG/CUB Ex. 7.0 at 2. To his memory, in almost every case, a witness for a large user proposes a per-customer allocation of distribution costs in an attempt to shift costs away from his or her client. *Id.* This Commission has routinely and consistently rejected this approach as contrary to sound regulatory policies in Illinois, including the most recent Ameren gas rate case.<sup>39</sup>

The People, therefore, recommend that the Commission reject IIEC's proposal to improperly shift more than \$14 million of costs from large users to residential users through the use of an undocumented, and consistently rejected, methodology.

## **VI. REVENUE ALLOCATION**

Based on agreement between the People and the Company to make certain changes to the characteristics of rate class GDS-5, the People no longer take issue with the Company's proposed constraints. However, the People urge the Commission to revisit this issue in the next case where Ameren's rate design and class revenue allocation are considered, so that decisions can be made about any further modifications that may be necessary in Rate GDS-5.

The People continue to take issue with the Company's proposed allocation of revenue within rate class GDS-1, discussed below in Section VI. Rate Design, GDS-1 Increase.

## **VII. RATE DESIGN**

### **A. Resolved Issues**

- 1. SFV Cost Recovery**
- 2. GDS-5 Rate Availability**

The People agree with Ameren's proposed changes in GDS-5 in this case. However, the People also urge the Commission to revisit this issue in the next case in which Ameren's rate design and class revenue allocation are considered, so that decisions can be made about any further modifications that may be necessary in Rate GDS-5.

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<sup>39</sup> See North Shore Gas Co. & Peoples Gas Light and Coke Co., ICC Docket Nos. 12-0511/12-0512 (Cons.), Final Order (June 18, 2013) at 210-211; Ameren Illinois Company, ICC Order Docket No. 11-0282, Final Order (Jan. 10, 2012) at 135; Northern Illinois Gas Company d/b/a Nicor Gas Company, ICC Order Docket No. 08-0363, Final Order (March 25, 2009) at 73.

## **B. Contested Issues**

### **1. GDS 1 Increase**

The People acknowledge that the Company and Commission Staff have come to some form of agreement regarding the customer charge in the GDS-1 rate class. AIC IB at 135. Notwithstanding this agreement, the People urge the Commission to adopt the People's position that there should be no change to the Company's existing customer charge for GDS-1 in any Rate Zone, other than a minor increase or decrease that may be necessary to consolidate the rates for Rate Zone I and Rate Zone III. AG IB at 52-55. The People argue that any rate increase allocable to GDS-1 customers should, instead, be recovered through increases in the per-therm distribution charge. AG IB at 53; AG/CUB Ex. 3.0 at 4. The Company continues to take issue with this approach, citing theoretical increases in the delivery charges for heating customers. AIC IB at 135. Despite its disagreement, the Company approaches some level of agreement with AG/CUB witness Mr. Rubin that small use customers will be negatively impacted by the Company's proposal. AIC IB at 136. In the end, however, the Company chooses to kick the can down the road and recommends exploring the issues in a future rate case (ostensibly after a heating customer study may be performed). AIC IB at 135-136.

The People argue that the Commission should reject Ameren's increase to the customer charge. The record evidence and the analysis of AG/CUB witness Scott Rubin demonstrate that Ameren's proposal imposes rates that improperly discriminate among customers and, thus, are contrary to the very notions of justness and reasonableness – the fundamental bases upon which utility rates are statutorily established. 220 ILCS 5/9-101. Determining whether something is just and reasonable should also include determining whether the rates improperly discriminate among customers. Placed in the simplest terms possible, people receiving the same service should not be asked to pay different rates for that service. Ameren's proposed rate design for GDS-1 violates this simple principle by inconsistently charging different levels of rates to customers with different usage characteristics and should be rejected by the Commission.

Ameren's existing GDS-1 rate consists of a single-block consumption charge and a customer charge that is the same for all GDS-1 customers in each rate zone. The existing rates will continue to recover, through the customer charge, 80% of what the Company alleges to be its "fixed" costs. The Company's proposed rates, however, do not allow recovery of these residential demand costs from the customers who cause them to be incurred (those customers who use more gas). Instead, the Company's proposed rates will require low-use residential customers to continue to subsidize high-use residential customers.

The People argue that the record evidence demonstrates that, under the Company's proposal, lower-usage customers will unfairly subsidize higher-usage customers. Ameren's cost-of-service study (COSS) shows that approximately 45% of the cost of serving GDS-1 is associated with capacity (or demand) related costs. Ameren Ex. 9.2, p. 1, lines 5 and 31. Capacity-related costs consist of various charges that include the return on rate base, depreciation expense, and operating expenses associated with former peak-day production facilities, the gas transmission system, and the distribution network. According to AG/CUB expert witness Scott Rubin, it is inappropriate to recover capacity-related costs on a per-customer basis from residential customers unless the residential class is "homogeneous." AG/CUB Ex. 3.0 at 25. Mr. Rubin clarifies that his definition of homogeneous, as he uses it, means that all customers in a class use gas in similar ways, and, accordingly, make a similar contribution to system demands. *Id.* Only in situations where the class is homogenous does it become appropriate to recover demand-related costs on a per-customer basis. *Id.* Therefore, where a customer class is

comprised of customers that widely diverge in their usage characteristics, it is not appropriate to recover demand-related costs on a per-customer basis. *Id.*

According to an analysis performed by Mr. Rubin in this docket, Ameren's GDS-1 customer class shows *tremendous* diversity, not homogeneity, including both heating and non-heating customers. AG/CUB Ex. 3.0 at 25. During the winter months, consumption levels between non-heating and heating customers can range from less than 20 therms per month for the lowest users up to several hundred therms per month for the highest users. *Id.* at 26. As an example, a non-heating customer might use less than 250 therms *for an entire year*. However, a larger heating customer might exceed that same level of gas *in a month*. *Id.* These customers, under Ameren's proposal, are lumped together in the same class, causing the low users to subsidize the high users' portion of fixed costs.

The Company attempts to explain away this discriminatory practice by stating that the allocation of their revenue requirement to each customer class is based on some combination of average daily demand (that is, the amount of gas used by the class throughout the year) and peak demand. Ameren Ex. 9.0 at 11-12. However, a billing analysis performed by Mr. Rubin revealed that a wide disparity between usage patterns results in an inequitable allocation of the revenue requirement within GDS-1. As an example, Mr. Rubin's analysis (AG/CUB Ex. 3.3) demonstrated that about one out of every eight residential customers in each service area uses more than 200 therms during at least one winter month. As Mr. Rubin concluded, "[t]here is no way that a non-heating customer using 200 therms per year [like the low-usage customer described in the paragraph above] is placing the same demands on the system as those larger heating customers using more than 200 therms in a single winter (peak) month [like the high-usage customer described in the paragraph above]." AG/CUB Ex. 3.0 at 26. Therefore, the realities reflected in the widely disparate patterns of usage between heating and non-heating customers demands that the Commission authorize splitting GDS-1 into heating and non-heating classes.

Ameren's proposed rate design unfairly impacts low-usage residential customers by shifting the burden of providing revenues from higher-use customers to lower-use customers, particularly for non-heating customers. By way of example, AG/CUB witness Rubin performed an analysis of the data provided by the Company and concluded the following:

Usage	Rate Zone I Percentage Increase	Rate Zone II Percentage Increase	Rate Zone III Percentage Increase
20 therms/mo	+13%	+23%	+15%
100 therms/mo	+7%	+16%	+8%
300 therms/mo	-1%	+6%	-0.4%

AG Ex. 3.0 at 21.

Despite the clear picture of disparate percentage increases among usage presented in the above table, Ameren attempts to paint a picture of relatively minor impact to relatively few customers and suggests that the People's concerns over low-usage customers are largely theoretical. See AIC Ex. 23.0 at 13-14. Contrary to Ameren's rosy outlook, Mr. Rubin's analysis of data from Ameren's bill frequency analysis workpapers revealed thousands of non-heating customers. AG/CUB Ex. 3.3. According to Mr. Rubin, in Rate Zone 1, approximately 4.7% of GDS-1 bills were for 20 therms or less. Based on his analysis, Mr. Rubin concluded that "There is little doubt that these are non-heating customers." AG/CUB Ex. 3.0 at 22. After an extensive analysis, Mr. Rubin estimates that Ameren has at least 10,000 non-heating customers in Rate Zone 1, about 6,000 non-heating customers in Rate Zone II, and about 14,000 customers in Rate Zone III. *Id.* In total, therefore, it is a reasonable conclusion that Ameren has at least

30,000 non-heating customers who use less than 20 therms per month during the winter. *Id.* Therefore, despite what Ameren suggests, there are at least 30,000 customers who are currently, and will continue to be under the proposed rate design, negatively impacted.

The inequities of Ameren's proposal continue to mount up the deeper one digs. As outlined, Mr. Rubin concluded that "Ameren's proposal does not just impose higher percentage increases on non-heating customers; it actually proposes greater dollar increases on low-use customers." AG/CUB Ex. 3.0 at 23. Under the Company's proposal, the per-therm consumption charge would be decreased, resulting in the lowest-use customers bearing the brunt of the greatest dollar impact. *Id.* Effectively, if a customer uses more gas, the customer will receive less of a rate increase. *Id.* This leads to the backwards result of the highest-use customers receiving a decrease in their bills under Ameren's proposed rates.<sup>40</sup> Curiously, the Company seems to brush this off by suggesting that these type of high-usage customers either do not exist or exist in such small numbers that it is not worth reviewing. AIC Ex. 23.0 at 13. In actuality, however, not only do these impacted customers exist – but they exist in numbers too large to be written off as an anomaly. Mr. Rubin's review of the billing data show that about 2% of Ameren's customers in Rate Zones I and III (about 11,000 customers) use more than 300 therms per month during January and February. In Rate Zone II, there are very few customers that use more than 600 therms per month in January and February (about 1/4 of 1%, or about 500 customers).

Moreover, the record evidence does not support the Company's proposal to increase the customer charge or unfairly cause lower-usage customers to subsidize other customers. In an effort to conduct the most complete analysis possible, Mr. Rubin analyzed the data made available by the Company, including reviewing those customers who are neither average nor typical. However, the Company proved unable or unwilling to present the requested data, further hampering the People's ability to perform as complete an analysis as possible. See AG/CUB Ex. 7.1. As an example, AIC witness Mr. Jones appears to have analyzed data for certain customers, including customers who are coded as being non-heating customers in Ameren's records. AIC Ex. 23.0 at 13. Despite being requested, however, that data was not provided to the People during discovery. See, *e.g.*, AG/CUB Ex. 3.2. Instead of having access to the actual data, Mr. Rubin was left with using a "reasonable proxy" for the actual data – a cut-off for residential customers who do not use more than 30 therms per month, which he based on data compiled by the U.S. Department of Energy. AG/CUB Ex. 7.0 at 4; AG/CUB Ex. 7.1. Ultimately, Mr. Jones provided a curious disclaimer that the data were unreliable and that he would not provide it. AG/CUB Ex. 3.2. Later, however, Mr. Jones refers to that same data in his rebuttal testimony, leaving the People unable to verify his analysis. AG/CUB Ex. 7.0 at 3.

Moreover, the data Mr. Jones presents in rebuttal, were it reliable, is based on an average or typical customer, not on customers who might be at the low- or high-end of the distribution of usage. According to Mr. Rubin, the importance of examining those customers outside the average is that it reveals the unusually disproportionate impact to customer when moving toward less cost-based recovery and more toward full SFV pricing. AG/CUB Ex. 7.0 at 3. The most unusual of these impacts occur at the extreme ends of the spectrum, such as the 20 or 30 percent of customers who use the least amount of gas. *Id.* The Company's calculations, on the other hand, calculate only the impacts based on average or typical customer usage data. This method does little more than mask the rather extreme impacts that can occur among low or high users.

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<sup>40</sup> This phenomenon becomes a reality once usage levels reach about 260 therms in Rate Zone I, 625 therms in Rate Zone II, and 285 therms in Rate Zone III. AG/CUB Ex. 3.0 at 23.

*Id.* The Commission has recognized the importance of recognizing the impacts that can occur at the ends of the spectrum. In Mr. Rubin's experience, other utilities have collected real data about these cost differences and this phenomenon where up to 20 or 30 percent of customers are left out of the rate has been recently recognized by the Commission as a growing concern. *Id.* The People's method of calculation recognizes these extremes and should be adopted by the Commission.

It is neither reasonable nor consistent with cost-based ratemaking for Ameren to increase the rates for low-use non-heating customers by more than the rates for higher-use heating customers. Therefore, the People urge the Commission to retain the customer charge at the current level and seek to bifurcate the GDS-1 class into heating and non-heating customers. As discussed in greater detail in the section below: Heating vs. Non-Heating Customer Study, the People alternatively support a study determining the value of separating heating and non-heating customers from the class.

## **2. Heating vs. Non-Heating Customer Study**

The People, as discussed above, are concerned about the impacts on low users of the Company's straight fixed variable pricing and urge the Commission to approve bifurcation of heating and non-heating customers in Rate Class GDS-1. Alternatively, the People encourage the Commission to authorize a study of bifurcating the class. If taken as true, the Company has presented a strong argument that it may lack the capability to distinguish a heating from a non-heating customer. AIC Ex. 23.0 at 14; Staff Ex. 15.0 at 18. The People argue that, throughout discovery in this docket, the Company's inability to provide certain specific data hampered the People's ability to conduct meaningful analysis. Even more telling of the need to conduct a study is the Company's admission that certain of their data is unreliable. AIC Ex. 23.0 at 13. Although the People maintain that the record in this docket demonstrates the Company's proposed rate design places an unfair emphasis on averages and typical customers, the People also recognize the need to rectify the Company's seeming lack of data for future rate cases.

The People note that, as a result of the unfortunate move toward SFV pricing for those utilities, the Commission required Peoples Gas and North Shore Gas to perform a cost-of-service study that separated the residential class into heating and non-heating customers.<sup>41</sup> The results of those cost of service studies were filed in their 2012 rate cases.<sup>42</sup> In the end, the Commission ordered Peoples Gas and North Shore to separate low-use customers from larger residential customers.<sup>43</sup> See AG/CUB Ex. 3.0 at 26-28. Similarly, in 2010, the Commission asked Commonwealth Edison Company to study the effects on low-use customers of moving toward SFV pricing. The studies in Peoples and North Shore revealed that the cost to serve non-heating customers was significantly lower than the cost to serve heating customers.<sup>44</sup> In fact, the costs were so much lower for non-heating customers that the utilities proposed reducing rates for non-heating customers by nearly one-third compared to the SFV-type of rate that had been adopted

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<sup>41</sup> North Shore Gas Co. & Peoples Gas Light and Coke Co., ICC Docket Nos. 11-0280/11-0281 (Cons.), Final Order (January 10, 2012) at 188-189.

<sup>42</sup> North Shore Gas Co. & Peoples Gas Light and Coke Co., ICC Docket Nos. 12-0511/12-0512 (Cons.), Final Order (June 18, 2013) at 210-11.

<sup>43</sup> North Shore Gas Co. & Peoples Gas Light and Coke Co., ICC Docket Nos. 12-0511/12-0512 (Cons.), Final Order (June 18, 2013) at 216.

<sup>44</sup> North Shore Gas Co. & Peoples Gas Light and Coke Co., ICC Docket Nos. 12-0511/12-0512 (Cons.), Final Order (June 18, 2013) at 211, 216.



prior to separating the customer classes. AG/CUB Ex. 3.0 at 27. Indeed, their COSS witness's rebuttal testimony in those cases concluded that under present (SFV-type) rates non-heating customers provided the utilities with rates of return of 82.77% (North Shore) and 63.69% (Peoples Gas).<sup>45</sup> Those returns compared to the overall system return of about 4% under present rates, according to the utilities' analysis.

In this docket, the People argue that the Company inaccurately relies on existing data for non-heating customers, which according to Mr. Rubin, simply strengthens any recommendation to use the same type of study that Peoples and North Shore were ordered by the Commission to conduct.<sup>46</sup> Mr. Rubin's analysis further showed that the result for Peoples Gas, which has thousands of non-heating customers, is that it was collecting about \$32 million per year from non-heating customers, but the cost to serve those customers was only about \$22 million. AG/CUB Ex. 3.0 at 27. In fact, unlike Ameren which has been collecting 80%, Peoples and North Shore were collecting less than 70% of the residential revenue requirement through the customer charge. AG/CUB Ex. 3.0 at 27. Therefore, Mr. Rubin concluded that had the utilities been collecting 80% of costs through the customer charge, the rates for non-heating customers would have collected millions of dollars more in excess of the cost of serving those customers. AG/CUB Ex. 3.0 at 27. For these reasons, the People urge the Commission to conduct a study on the impact of the rate design felt by heating versus non-heating customers.

Although the People primarily argue that the heating and non-heating classes should be bifurcated in this rate case, the People also acknowledge that the Commission may determine that the Company is not currently in possession of the available data upon which a fair and reasonable bifurcation could be conducted at this point in time. In that situation, the People, therefore, urge the Commission to order the Company to assemble the necessary data, conduct a study, and bifurcate the residential class by the next rate case. The People further urge the Commission to require the Company to honor its commitment to provide, at the request of the Commission, a study or report presenting the usage characteristics of its residential customers. AIC IB at 137; AIC Ex. 37.0 at 5.

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<sup>45</sup> North Shore Gas Co. & Peoples Gas Light and Coke Co., ICC Docket Nos. 12-0511/12-0512 (Cons.), Final Order (June 18, 2013) at 212.

<sup>46</sup> North Shore Gas Co. & Peoples Gas Light and Coke Co., ICC Docket Nos. 11-0280/11-0281 (Cons.), Final Order (January 10, 2012) at 188-189.

## VIII. CONCLUSION

For the foregoing reasons, the People request that the Commission enter an order establishing just and reasonable rates for Ameren Illinois Company incorporating the adjustments proposed herein, and employing the rate design discussed above.

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Respectfully submitted,

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